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Title 3—

The President

Presidential Determination No. 94–30 of June 30, 1994

Suspending Restrictions on U.S. Relations With the Palestine Liberation Organization

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Middle East Peace Facilitation Act of 1994, part E of title V, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236, I hereby:

(1) certify that it is in the national interest to suspend the application of the following provisions of law until January 1, 1995:

(A) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202); and

(D) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w), as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

(2) certify that the Palestine Liberation Organization continues to abide by its commitments: in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway; and in, and resulting from, the implementation of the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

You are authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, June 30, 1994.

[FR Doc. 94–17156
Filed 7–11–94; 4:07 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–31 of July 1, 1994

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that $7,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of Haitian migrants. These funds are to be used for refugee processing, repatriation, resettlement, and assistance activities as well as related Department of State administrative expenses. A part of the funds may be contributed bilaterally to the governments in whose countries related operations are being conducted. These funds may be contributed to foreign governments, international organizations, governmental, and nongovernmental agencies.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, July 1, 1994.

[FR Doc. 94–17157
Filed 7–11–94; 4:08 pm]
Billing code 4710–10–M

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91–155–14]

Mediterranean Fruit Fly; Removal From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing the quarantined area in Riverside County, CA, from the list of quarantined areas. We have determined that the Mediterranean fruit fly has been eradicated from this area and that restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from this area.

DATES: Interim rule effective July 7, 1994. Consideration will be given only to comments received on or before September 12, 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. 91–155–14. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

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

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations) and quarantined the Hancock Park area of Los Angeles County, CA, in an interim rule effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573–57579, Docket No. 91–155). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. We have published a series of interim rules amending these regulations by adding to or removing from the list of quarantined areas certain portions of Los Angeles, Santa Clara, Orange, Riverside, San Bernardino, and San Diego Counties, CA. Amendments affecting the quarantined areas in California were made effective on September 10, and November 12, 1992; and on January 19, July 16, August 3, September 15, October 8, November 22, and December 16, 1993; and on January 10, February 14, and March 4, 1994 (57 FR 42485–42486, Docket No. 91–155–2; 57 FR 54166–54169, Docket No. 91–155–3; 58 FR 6343–6346, Docket No. 91–155–4; 58 FR 39123–39124, Docket No. 91–155–5; 58 FR 42489–42491, Docket No. 91–155–6; 58 FR 49186–49190, Docket No. 91–155–7; 58 FR 53105–53109, Docket No. 91–155–8; 58 FR 63027–63031, Docket No. 91–155–9; 58 FR 67627–67630, Docket No. 91–155–10; 59 FR 2281–2283, Docket No. 91–155–11; 59 FR 7895–7896, Docket No. 91–155–12; and 59 FR 11177–11180, Docket No. 91–155–13).

We have determined, based on trapping surveys conducted by the Animal and Plant Health Inspection Service (APHIS) and California State and county agency inspectors, that the Medfly has been eradicated from the quarantined area in Riverside County, CA. The last finding of the Medfly thought to be associated with the infestation in this area was made on December 17, 1993. Since then, no evidence of infestation has been found in this area. We have determined that the Medfly no longer exists in this area, and we are therefore removing it from the list of areas in § 301.78–3(c) quarantined because of the Mediterranean fruit fly. As a result of this action there are no longer any quarantined areas in Riverside County Portions of Los Angeles, Orange, and San Bernardino Counties remain quarantined.

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. The area in California affected by this document was quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of this area would impose unnecessary regulatory restrictions on the public, immediate action is warranted to remove restrictions from the noninfested area.

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 signature. 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 the review process required by Executive Order 12866.

This interim rule affects the interstate movement of regulated articles from the Corona area of Riverside County, CA. There are approximately 93 small entities that could be affected, including 66 fruit sellers, 14 nurseries, 6 growers, 4 vendors, and 3 swapmeets.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, most of these small entities sell regulated articles primarily for local intrastate, not interstate, movement, and the sale of these articles would not be affected by this interim regulation.

Therefore, termination of the quarantine in the Riverside County area should have a minimal economic effect on the few small entities operating there. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

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

Executive Order 12372

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

Executive Order 12778

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

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in subpart 301.78 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 0579–0088.

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

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

2. In § 301.78–3, paragraph (c), the designation of the quarantined areas is amended by removing the entry for Riverside County.

Done in Washington, DC, this 7th day of July, 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–16966 Filed 7–12–94; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 354

[Docket No. 94–062–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by adding a commuted traveltime allowance for travel between two locations in Indiana. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime between these locations.

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Eggert, Assistant to the Deputy Administrator, Plant Protection and Quarantine, APHIS, USDA, room 458, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by adding a commuted traveltime allowance for travel between two locations in Indiana. The amendment is set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final 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.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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 final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by adding in the table, in alphabetical order, under Indiana, the following entry to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Add]			
* *	*	*	*
Indiana:			
Burns Harbor (including Gary).	Frankfort ..		5
* *	*	*	*

Done in Washington, DC, this 7th day of July 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–16968 Filed 7–12–94; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Part 406

Nursery Crop Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Nursery Crop Insurance regulations, effective for the 1995 and succeeding crop years, by making a change in the policy to clarify the method of determining loss.

The Nursery policy contains the term "said damaged crop" which has been interpreted, in some forums, to refer to specific damaged portion of the crop instead of the unit as was the intent.

EFFECTIVE DATE: This regulation is effective on June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mari L. Dunleavy, Federal Crop Insurance Corporation, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Executive Order 12866 and Department Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of this regulation under those procedures. The sunset review date established for these regulations is March 31, 1999.

This 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 (OMB).

This action will not have a significant economic effect on a substantial number of small entities. This action does not increase the paperwork burden on the reinsured company because the reinsured company must already provide the additional information required by this regulation to the state in which it is licensed. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety, Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule are not retroactive and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR 400.169 must be exhausted before judicial action may be brought.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federal Assessment. The policies and procedures contained in this rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

On April 25, 1994, the FCIC published a proposed rule at 59 FR 19661 proposing to amend the nursery policy to clarify the method of determining loss. Comments were requested for 30 days after the publication of said rule, in which time no comments were received. Therefore, the FCIC hereby adopts the proposed rule published at 59 FR 19661 as final without changes.

The date by which all changes in this policy must be final is June 30. All present insureds under the policy and all applicants have been specifically advised of the changes herein. Additionally, changes have been placed in the agents' office prior to the contract change date. Good cause is thereby found to make this rule final in less than 30 days.

List of Subjects in 7 CFR Part 406

Crop insurance, Nursery.

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Nursery Crop Insurance Regulations (7 CFR part 406) effective for the 1995 crop year as follows:

1. The authority citation for 7 CFR part 406 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. Section 406.7 is amended in the contract by revising subsection 9.d(1) to read as follows:

§ 406.7 The application and policy.

* * * * *

9. Claim for Indemnity

* * * * *

d. * * *

(1) The amount of insurance applicable to the unit less 90% of the value of the crop remaining on the unit after the loss; or

* * * * *

§ 406.7 [Amended]

3. Section 406.7 is amended in the contract by revising subsection 17, redesignating paragraphs e through m as f through n, and by inserting a new paragraph e to read as follows:

17. Meaning of Terms

* * * * *

e. Crop means all plants eligible for insurance on the unit as reported on the nursery crop report.

* * * * *

Done in Washington, DC, on June 30, 1994.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 94–16992 Filed 7–12–94; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1398–92]

RIN 1115–AA75

Guam Visa Waiver Program; Taiwan

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by amending the one-year restriction on Taiwan's inclusion in the Guam Visa Waiver Program, and by removing the requirement that residents of Taiwan who are in possession of Taiwan National Identity Cards traveling to Guam, do so on a direct, nonstop flight. The removal of the restriction is the result of an evaluation conducted by the Service that indicated that there were only two instances of abuse of the Guam Visa Waiver Program by non-Taiwan residents detected by the Service since Taiwan was temporarily added to the Program on July 15, 1993. This rule facilitates the travel of certain residents of Taiwan to visit Guam under certain conditions. It enables holders of Taiwan passports who begin their travel in Taiwan and who are in possession of Taiwan National Identity Cards to visit Guam as nonimmigrant visitors for up to 15 days for business or pleasure without first obtaining a nonimmigrant visitor visa at an American consulate abroad.

EFFECTIVE DATE: This rule is effective July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Ronald J. Hays, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, Telephone number: (202) 514–0912.

SUPPLEMENTARY INFORMATION: Under section 212(1)(1) of the Immigration and Nationality Act (Act), certain visitors from designated countries may visit Guam for up to 15 days without having to obtain nonimmigrant visitor visas from American consulates outside the United States.

First implemented on October 1, 1988, this program resulted in thousands of nonimmigrant visitors from Australia, Brunei, Burma, Indonesia, Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, the Republic of Korea, Singapore, the Solomon Islands, the United Kingdom (including citizens of the colony of Hong Kong), Vanuatu and Western Samoa, visiting Guam under the conditions mentioned in the summary.

On July 15, 1993, the Service published an interim rule with request for comments, in the **Federal Register**, at 58 FR 38045–38046, temporarily adding Taiwan through July 15, 1994, to the list meeting the eligibility criteria for the Guam Visa Waiver Program, implemented under the Omnibus Territories Act of 1986, Public Law 99–396. This rule removes the one-year restriction on Taiwan's inclusion in the program.

Since the Service was concerned about potential abuse by non-Taiwan residents attempting to enter the United States illegally, only residents of Taiwan in possession of Taiwan National Identity Cards, in addition to valid Taiwan passports with valid re-entry permits issued by the Taiwan Ministry of Foreign Affairs, were included in the Guam Visa Waiver Program. In addition, there was a further restriction that persons must travel on a direct, nonstop flight from Taiwan to Guam.

Since Taiwan's inclusion in the program, only two instances of abuse of the Guam Visa Waiver Program, by non-Taiwan residents, were detected by the Service. However, the requirement that Taiwan residents seeking to enter Guam under this program do so on a direct non-stop flight from Taiwan had an unforeseeable impact on the tourist industry in the Commonwealth of the Northern Marianas when the air carrier serving Guam from Taiwan via Saipan eliminated the Saipan stop. Four comments were received by the Service concerning the change of service to the Northern Marianas. These comments all came from the Office of the Governor, Commonwealth of the Northern Marianas, protesting that the non-stop requirement of the interim rule negatively affected tourism in the Commonwealth because Taiwan residents could no longer travel easily to the Commonwealth.

The Service agrees with these comments and has amended the rule to remove the direct non-stop flight requirement. However, to address the potential for abuse by non-Taiwan residents seeking to enter the United States, the rule will be amended to reflect that only holders of Taiwan passports who are residents of Taiwan who begin their travel to Guam in Taipei and arrive in Guam without an intermediate layover will be eligible to participate in the Guam Visa Waiver Program. Such travellers will be further restricted to those who arrive on a flight which has not had an intermediate stop except in a territory of the United States.

The Service reserves the right to reinstate the direct non-stop flight requirement by means of a notice in the **Federal Register** should the percentage of inadmissible passengers arriving in Guam who have transited a territory of the United States enroute to Guam exceed 20 percent of all inadmissible passengers arriving in Guam for two consecutive months.

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors: this rule merely removes a restriction on travel, and will have a positive economic impact for Guam by increasing tourism.

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

The regulations adopted herein will not have substantial direct effect 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 rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Commissioner of the Immigration and Naturalization Service certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will enhance family well-being by allowing eligible Taiwan families to readily come to Guam on vacation.

List of Subjects in 8 CFR Part 212

Administrative practice and procedures, Aliens, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, the interim rule published at 58 FR 38045–38046, on July 15, 1993, amending 8 CFR part 212 is adopted as a final rule with the following changes:

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

2. In § 212.1, paragraph (e)(3) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(e) * * *

(3)(i) The following geographic areas meet the eligibility criteria as stated in paragraph (e)(2) of this section: Australia, Brunei, Burma, Indonesia, Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, Republic of Korea, Singapore, Solomon Islands, Taiwan (residents thereof who begin their travel in Taiwan and who travel on direct flights from Taiwan to Guam without an intermediate layover or stop except that the flights may stop in a territory of the United States enroute), the United Kingdom (including the citizens of the colony of Hong Kong), Vanuatu, and Western Samoa. The provision that flights transporting residents of Taiwan to Guam may stop at a territory of the United States enroute may be rescinded whenever the number of inadmissible passengers arriving in Guam who have transited a territory of the United States enroute to Guam exceeds 20 percent of all the inadmissible passengers arriving in Guam within any consecutive two-month period. Such rescission will be published in the **Federal Register.**

(ii) For the purposes of this section, the term *citizen of a country* as used in 8 CFR 212.1(e)(1) when applied to Taiwan refers only to residents of Taiwan who are in possession of Taiwan National Identity Cards and a valid Taiwan passport with a valid re-entry permit issued by the Taiwan Ministry of Foreign Affairs. It does not refer to any other holder of a Taiwan passport or a passport issued by the People's Republic of China.

* * * * *

Dated: June 10, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

Dated: June 21, 1994.

Mary A. Ryan,

Assistant Secretary of State for Consular Affairs, Department of State.

Dated: June 23, 1994.

Leslie M. Turner,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

[FR Doc 94–16965; Filed 7–12–94; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 93–024–3]

Brucellosis Surveillance; MCI Reactor Prevalence Rates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations to eliminate the requirement that States maintain specified Market Cattle Identification (MCI) reactor prevalence rates to maintain their official classifications. We are instead requiring the States to successfully close (epidemiologically investigate and resolve) certain percentages of cases detected through the MCI program. We believe these amendments will better serve Federal and State animal health officials in their efforts to prevent the interstate spread of brucellosis.

EFFECTIVE DATE: August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, National Brucellosis Epidemiologist, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4918.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is an infectious disease of certain animals and humans. In its principal animal hosts, it is characterized by abortion and impaired fertility. Through a cooperative Federal-State effort, the United States is now approaching total eradication of the field strain *Brucella abortus* in domestic cattle and bison herds. As of June 1994, there were only 235 known infected

cattle and bison herds, and the U.S. Department of Agriculture (USDA) had declared 33 States, Puerto Rico, and the U.S. Virgin Islands free of the disease. Fewer than 400 new infected herds were identified last year.

The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine to prevent the spread of brucellosis.

On January 14, 1994, we published in the **Federal Register** (59 FR 2312–2316, Docket No. 93–024–1) a proposal to eliminate the requirement in the regulations that States meet specific MCI reactor prevalence rates to maintain their official classifications. We also proposed to require that to maintain their official classifications, States must successfully close a specified percentage of MCI reactor cases.

We solicited comments concerning our proposal for a 30-day comment period ending February 14, 1994. On February 11, 1994, we published in the **Federal Register** a notice extending the comment period to March 14, 1994 (59 FR 6593, Docket No. 93–024–2). We received four comments by that date, three from Federal veterinarians and one from the American Veterinary Medical Association (AVMA). We carefully considered all of the comments we received. They are discussed below:

The AVMA comment supported the proposal as written. The other three comments all suggested that language in a particular paragraph in the proposal be deleted.

The language in question occurs in the definition of "Class A State or area" in § 78.1(a)(2)(ii)(B)*(2)*, and is repeated in the definitions "Class B State or area," "Class C State or area," and "Class Free State or area." The issue at hand is what action a designated epidemiologist must take after determining that brucellosis reactors are present in a herd. The regulations require that such herds must be subjected to herd blood tests or quarantined unless:

> (*2*) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:
>
> (*i*) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;
>
> (*ii*) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or,
>
> (*iii*) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

Three commenters opposed inclusion of the language in (*i*), (*ii*), and (*iii*) that provides guidance to designated epidemiologists on how to determine that a herd where a positive MCI blood sample was collected no longer presents a risk of spreading brucellosis, or is unlikely to be infected with brucellosis.

The commenters made the point that designated epidemiologists are highly trained professionals who are responsible, among other duties, for determining when a herd situation presents a risk of spreading brucellosis. The commenters believe that designated epidemiologists are fully capable of determining what evidence is relevant to such a decision, and interpreting the evidence. As one commenter put it, "each individual situation should be evaluated with sound epidemiological principles which cannot be adequately enumerated by a 'predetermined list'."

We agree that no list of risk scenarios in the regulations, however extensive, could substitute for the professional judgment and experience of a designated epidemiologist. We rely on continuing education programs the Animal and Plant Health Inspection Service (APHIS) mandates for designated epidemiologists, and review of their decisions by other USDA epidemiologists, to ensure they make reasonable determinations with regard to brucellosis risks. We did not attempt to provide a "cookbook" list in the regulations to substitute for this system of professional judgment backed by continuing education and review by professional peers.

The proposed language cites three situations that *could* provide evidence that a herd that no longer presents a risk of spreading brucellosis, or is unlikely to be infected with brucellosis. These examples were provided by epidemiologists from their own experience as examples of frequently occurring situations where the risk of spreading brucellosis is mitigated. The proposed language specifically says that "evidence could include, but is not limited to" the described situations. The examples were provided not for the benefit of designated epidemiologists, who are well aware of their relevance, but for the benefit of members of the public who may be affected by the regulations. We believe it will aid public understanding of the regulations to see some examples of situations that could provide evidence that a herd with an MCI reactor no longer presents a risk of spreading brucellosis, or is unlikely to be infected with brucellosis.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule, without change.

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.

Only State animal health agencies will be affected by this rule; it will have no effect on the private sector. State animal health officials will need to provide other States with information on only the MCI reactors detected each month instead of total numbers of MCI test cattle slaughtered. They will also need to maintain records of the numbers of MCI reactor cases that are successfully closed and report the percentage of successfully closed cases annually to APHIS. The States are already required to carry out the activities that constitute successful case closure.

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 it; (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

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 rule have been submitted for approval to the Office of Management and Budget.

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. Section 78.1 is amended as follows:

a. In the definition of *Class A State or area*, paragraph (a)(2)(ii) is revised to read as set forth below and paragraph (c) is removed.

b. In the definition of *Class B State or area*, paragraph (a)(2)(ii) is revised to read as set forth below and paragraph (c) is removed.

c. In the definition of *Class C State or area*, paragraph (a)(2)(ii) is revised to read as set forth below, paragraph (c) is removed, and paragraph (d) is redesignated as paragraph (c).

d. In the definition of *Class Free State or area*, paragraph (a)(2)(ii) is revised to read as set forth below and paragraph (c) is removed.

e. A new definition of *Successfully closed case* is added, in alphabetical order, to read as set forth below.

§ 78.1 Definitions.

* * * * *

Class A State or area. * * *

(a) * * *

(2) * * *

(ii) *Brucellosis reactors.*

(A) *Tracebacks.* At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class A. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(*1*) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(*2*) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(*i*) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(*ii*) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(*iii*) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

* * * * *

Class B State or area. * * *

(a) * * *

(2) * * *

(ii) *Brucellosis reactors.*

(A) *Tracebacks.* At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 90 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class B. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 30 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(*1*) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(*2*) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(*i*) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(*ii*) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(*iii*) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

* * * * *

Class C State or area. * * *

(a) * * *

(2) * * *

(ii) *Brucellosis reactors.*

(A) *Tracebacks.* At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 90 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class C. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 30 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(*1*) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(*2*) Evidence indicates that the brucellosis reactor is from a herd that no

longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(*i*) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(*ii*) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(*iii*) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

* * * * *

Class Free State or area. * * *

(a) * * *

(2) * * *

(ii) *Brucellosis reactors.*

(A) *Tracebacks.* At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(*1*) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(*2*) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(*i*) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(*ii*) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(*iii*) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

* * * * *

Successfully closed case. Follow up of an MCI reactor traceback with an epidemiologic investigation which results in brucellosis testing or quarantine of the herd of origin, or a determination by a designated brucellosis epidemiologist that justification exists for not testing or quarantining the herd of origin.

* * * * *

Done in Washington, DC, this 7th day of July 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–16967 Filed 7–12–94; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40, 72, 74, 75, 150

RIN 3150–AE35

Licensee Submittal of Data in Computer-Readable Form

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require certain licensees to submit data to the NRC in computer-readable format. The final rule streamlines the collection of nuclear material transaction data and increases the accuracy of the reported information. The final rule will save money for both NRC and licensees in the data collection process.

EFFECTIVE DATE: October 11, 1994.

FOR FURTHER INFORMATION CONTACT: Richard H. Gramann, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–8118.

SUPPLEMENTARY INFORMATION:

Background

The NRC has a major interest in the potential use for computer-readable submittal. This innovation not only can result in monetary savings, but also can increase efficiency and accuracy of data collection efforts. In the past, the NRC has permitted the use of computer-readable forms as well as the use of computer generated facsimiles of the printed forms. Many licensees now generate their own facsimiles. The latest revision of "Personal Computer Data Input for NRC Licensees" (Nuclear Materials Management and Safeguards System (NMMSS) Report D–24) contains specific procedures for submitting in computer-readable format: DOE/NRC Form 741, "Nuclear Material Transaction Report"; DOE/NRC Form 741A, "Nuclear Material Transaction Report (Continuation Page)"; DOE/NRC Form 740M, "Concise Note"; DOE/NRC Form 742, "Material Balance Report"; and DOE/NRC Form 742C, "Physical Inventory Listing." The amendments make mandatory the reporting in computer-readable format prescribed by the D–24 document. These amendments eliminate the need for paper forms, thus providing a cost saving for the NRC in satisfying its statutory and treaty obligations.

The amendments affect each licensee who transfers, receives, or adjusts the inventory, in any manner, of uranium or thorium source material of foreign origin by 1 kilogram or more. Each specific licensee who transfers or receives 1 gram or more of contained uranium-235, uranium-233, or plutonium would also be affected.

These amendments are intended only to take advantage of current computer technology and to make the data collection process more efficient and less costly. The Commission believes there will be minimal costs associated with the implementation of these amendments. Many licensees already have their material accounting automated and can generate computer-readable reports. For those licensees who have not yet automated their reporting, a diskette with the appropriate formats and user prompts may be obtained from the NRC to facilitate this process. Licensees may obtain a copy of the NMMSS report or the diskette by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001.

On January 26, 1993 (58 FR 6098), the Commission published a proposed rule in the **Federal Register** to make mandatory licensee submittal in

computer-readable format. A 90-day comment period expired on April 26, 1993. Comments were received from nine respondents. Two comments were not in favor of the amendments, whereas the others expressed approval and encouragement to take advantage of today's technology. Several constructive suggestions were made and are included in the summary of public comments.

Summary of Public Comment

A summary of the public comments and a clarifying response follows:

(1) *Continued requirement for hard copy forms.* Several respondents expressed the continued need for hard copy forms. One commenter stated their material control and accounting (MC&A) program is based upon a "paper trail" utilizing the DOE/NRC Form 741. Another commenter stated the continued requirement for submitting hard copies to various Department of Energy contractors. Another commenter raised the question of storage of records for a period of time specified by Commission regulations. Concern also was expressed regarding secondary distribution requirements of hard copy DOE/NRC Form 741 for certain domestic transactions and all import and export transactions. Finally one commenter stated the current requirements, which provide for both computer-readable and hard copy, are the more acceptable.

The final amendments require licensees to submit computer-readable reports to the NRC in a format prescribed in NMMSS Report D–24. The amendments do not preclude other formats used for other purposes. Many licensees already generate facsimile reports for satisfying given requirements. Licensees that have no capability to produce these facsimiles may use the diskette provided by the NRC which can generate a facsimile (either hard copy or disk file for storage) of all forms subject to these amendments. With regard to records retention, the NRC permits the storage of records on electronic media with the capability for producing legible, accurate, and complete records during the required retention period. This would include computer generated facsimiles of forms subject to these amendments. For the reporting system to operate efficiently, computer-readable submittal for NRC's use is necessary.

(2) *Accepting shipper's values.* A respondent suggested that the action code and date on the computer-readable DOE/NRC Form 741 for a shipment can be easily changed by the recipient to reflect accepting shipper's values.

The diskette that is available from the NRC includes a program for editing the file of a computer-readable DOE/NRC Form 741 to edit the action code and date to reflect accepting shipper's values.

(3) *Telecommunication of licensee submittal.* Four respondents urged the transmission of the computer-readable files over a modem instead of using diskettes.

There is no disagreement with the commenters that modem transmission is desirable. Transmitting files by modem to satisfy reporting requirements is an option of these amendments. The NRC will work with any licensee desiring this option.

(4) *Revision of guidance documents.* Several respondents noted the need to revise the guidance documents: NUREG/BR–0006, "Instructions for Completing Nuclear Material Transaction Reports and Concise Note Forms"; NUREG/BR–0007, "Instructions for Completing Material Balance Report and Physical Inventory Listing"; and NMMSS Report D–24, "Personal Computer Data Input for NRC Licensees," to be compatible with the submittal of computer-readable formats.

NMMSS Report D–24 has been revised to include all the forms required in these amendments. The other guidance documents will be revised, as needed, to reflect the use of computer-readable forms to replace the paper forms.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in the categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0003, –0057, –0004, and –0058.

Because the rule will eliminate the need for certain paper forms, the public burden for this collection of information is expected to be reduced. The reduction in burden for the DOE/NRC Forms 741, 741A, 742, and 740M is estimated to average .25 hours per response. The reduction in burden for the DOE/NRC Form 742C is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for further reducing reporting burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0003, –0004, –0057, and –0058), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

These final amendments have no significant impact on State and local governments and geographical regions. They have a significant positive impact on the efficiency and accuracy of the data collection process. The final amendments do not have a significant impact on health, safety, and the environment. This rule requires that all licensees submit computer-readable reports regarding special nuclear material transactions. The NRC will realize a significant cost savings. Licensees have already demonstrated their computer expertise by generating near-perfect copies of the current forms on Laser Jet printers. Generating computer-readable data in accordance with a prescribed format offers less burden than producing these near-perfect copies. The rule will facilitate the collection of data by the NRC to satisfy its statutory and treaty obligations. This constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this change does not have a significant economic impact on a substantial number of small entities. This final rule affects all licensees required to report special nuclear material transactions using DOE/NRC Forms 741, 741A, 742, 742C, and 740M. Owners of nuclear power plants and fuel fabrication plants have already automated most, if not all, of their material accounting program and can easily generate computer-readable reports. Other affected licensees include laboratories, universities, colleges, medical clinics and hospitals, some of which may fall within the scope of the NRC's size standards for determination of which NRC licensees qualify as small entities (December 9, 1985; 50 FR 50241).

One commenter stated that the proposed rule would increase the burden for licensees with manual accountability systems by requiring manual entry of data to diskette and a hard-copy data check for accuracy. Entities that may not yet have automated their reporting may obtain a diskette from the NRC to assist them in satisfying their reporting requirements. No respondent has stated a lack of computer capability to use such a diskette, and the likelihood of such a need is remote in view of the types of affected licensees. In addition, NRC staff experience with computer readable transfer of information indicates less burden and more efficiency for licensees and the NRC than transfer of hard-copy information. For these reasons, any initial cost associated with preparation of computer readable reports should be minimal and lead to a reduction in reporting burden for all affected licensees.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 40, 72, 74, 75, and 150.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, Sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 40.64, paragraph (a) is revised to read as follows:

§ 40.64 Reports.

(a) Except as specified in paragraphs (d) and (e) of this section, each specific licensee who transfers, receives, or adjusts the inventory, in any manner, of uranium or thorium source material of foreign origin by 1 kilogram or more or who imports or exports 1 kilogram of uranium or thorium source material of any origin shall complete a Nuclear Material Transaction Report in computer-readable format in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has been previously submitted in paper form.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

3. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, Sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

4. In § 72.76, paragraph (a) is revised to read as follows:

§ 72.76 Material status reports.

(a) Except as provided in paragraph (b) of this section, each licensee shall complete in computer-readable format and submit to the Commission a material status report in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC

Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. These reports provide information concerning the special nuclear material contained in the spent fuel possessed, received, transferred, disposed of, or lost by the licensee. Material status reports must be made as of March 31 and September 30 of each year and filed within 30 days after the end of the period covered by the report. The Commission may, when good cause is shown, permit a licensee to submit material status reports at other times. The Commission's copy of this report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 742 which has been previously submitted in paper form.

* * * * *

5. Section 72.78 is revised to read as follows:

§ 72.78 Nuclear material transfer reports.

(a) Except as provided in paragraph (b) of this section, whenever the licensee transfers or receives spent fuel, the licensee shall complete in computer-readable format a Nuclear Material Transaction Report in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24, "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. Each ISFSI licensee who receives spent fuel from a foreign source shall complete both the supplier's and receiver's portion of the Nuclear Material Transaction Report, verify the identity of the spent fuel, and indicate the results on the receiver's portion of the form. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has been previously submitted in paper form.

(b) Any licensee who is required to submit Nuclear Material Transactions Reports pursuant to § 75.34 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit the reports only as provided in that section instead of as provided in paragraph (a) of this section.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

6. The authority citation for part 74 continues to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

7. In § 74.13, paragraph (a)(1) is revised to read as follows:

§ 74.13 Material status reports.

(a)(1) Each licensee authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit in computer-readable format material balance reports concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of, or lost by it. These prescribed computer-readable reports replace the DOE/NRC Form 742 which has been previously submitted in paper form. Each nuclear reactor licensee, as defined in §§ 50.21 and 50.22 of this chapter, also shall prepare in computer-readable format a statement of the composition of the ending inventory. The inventory composition report must be submitted with each material balance report. This prescribed computer-readable report replaces the DOE/NRC Form 742C which has been previously submitted in paper form. Each licensee shall prepare and submit the reports described in this paragraph in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. Each licensee shall compile a report as of March 31 and September 30 of each year and file it within 30 days after the end of the period covered by the report. The Commission may permit a licensee to submit the reports at other times when good cause is shown.

* * * * *

8. Section 74.15 is revised to read as follows:

§ 74.15 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall complete in computer-readable format a Nuclear Material Transaction Report. This should be done in accordance with instructions whenever the licensee transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Copies of these instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees") may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. This prescribed computer-readable format replaces the DOE/NRC Form 741 which has been previously submitted in paper form.

(b) Each licensee who receives 1 gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source shall:

(1) Complete in computer-readable format both the supplier's and receiver's portion of the Nuclear Material Transaction Report;

(2) Perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and

(3) Indicate the results of these tests on the receiver's portion of the form.

(c) Any licensee who is required to submit inventory change reports pursuant to § 75.34 of this chapter (pertaining to implementation of the US/International Atomic Energy Agency (IAEA) Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) and (b) of this section).

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

9. The authority citation for part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

10. Section 75.31 is revised to read as follows:

§ 75.31 General requirements.

Each licensee who has been given notice by the Commission in writing that its installation has been identified under the Agreement shall make an initial inventory report in computer-readable format, and thereafter shall make accounting reports, with respect to such installation and, in addition, licensees who have been given notice, pursuant to § 75.41, that their installations are subject to the application of IAEA safeguards, shall make the special reports described in

§ 75.36. These reports must be based on the records kept in accordance with § 75.21. At the request of the Commission, the licensee shall amplify or clarify any report with respect to any matter relevant to implementation of the Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within twenty (20) days or other time as may be specified by the Commission.

11. In § 75.32, paragraph (b) is revised to read as follows:

§ 75.32 Initial inventory report.

* * * * *

(b) The initial inventory report, to be submitted to the Commission in computer-readable format, in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"), must show the quantities of nuclear material contained in or at an installation as of the initial inventory reporting date. The information in the initial inventory report may be based upon the licensee's book record.

* * * * *

12. In § 75.33, paragraph (a) is revised to read as follows:

§ 75.33 Accounting reports.

(a)(1) The accounting reports for each IAEA material balance area must consist of

(i) Computer-readable Nuclear Material Transaction Reports (Inventory Change Reports) and

(ii) Computer-readable Material Balance Reports showing the material balance based on a physical inventory of nuclear material actually present.

(2) These prescribed computer-readable forms replace the following forms which have been submitted in paper form:

(i) The DOE/NRC Form 741; and

(ii) The DOE/NRC Form 742.

* * * * *

13. Section 75.34 is revised to read as follows:

§ 75.34 Inventory change reports.

(a) Nuclear Material Transaction Reports (Inventory Change Reports) in computer-readable format to be completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"), must specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate,

(1) The originating IAEA material balance area or the shipper; and

(2) The receiving IAEA material balance area or the recipient.

Each licensee who receives special nuclear material from a foreign source shall complete both the supplier's and receiver's portion of the form.

(b) Nuclear Material Transactions Reports (Inventory Change Reports), when appropriate, must be accompanied by computer-readable Concise Notes, completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. This prescribed computer-readable format replaces the DOE/NRC Form 740M which has been previously submitted in paper form. This Concise Note is used in:

(1) Explaining the inventory changes on the basis of the operating records provided for under § 75.23; and

(2) Describing, to the extent specified in the license conditions, the anticipated operational program for the installation, including particularly, but not exclusively, the schedule for taking physical inventory.

14. In § 75.35, paragraph (a) is revised to read as follows:

§ 75.35 Material status reports.

(a) A material status report must be submitted for each physical inventory which is taken as part of the material accounting and control procedures required by § 75.21. The material status report must include a computer-readable Material Balance Report and a computer-readable Physical Inventory Listing which lists all batches separately and specifies material identification and batch data for each batch. When appropriate, the material status report must be accompanied by a computer-readable Concise Note. The reports described in this section must be prepared and submitted in accordance with instructions (NUREG/BR–0007, NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. These prescribed computer-readable formats replace the DOE/NRC Forms 742, 742C, and 740M which have been submitted in paper form.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

15. The authority citation for part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

16. In § 150.16, paragraph (a) is revised to read as follows:

§ 150.16 Submission to Commission of nuclear material transfer reports.

(a) Each person who transfers and each person who receives special nuclear material pursuant to an Agreement State license shall complete and submit in computer-readable format Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees") whenever transferring or receiving a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Each person who transfers this material shall submit in accordance with instructions the computer-readable format promptly after the transfer takes place. Each person who receives special nuclear material shall submit in accordance with instructions the computer-readable format within ten (10) days after the special nuclear material is received. Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. These prescribed computer-readable formats replace the DOE/NRC Form 741 which have been previously submitted in paper form.

* * * * *

17. In § 150.17, paragraph (a) is revised to read as follows:

§ 150.17 Submission to Commission of source material reports.

(a) Except as specified in paragraph (d) of this section and § 150.17a, each person who, pursuant to an Agreement State specific license, transfers or

receives or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin or who imports 1 kilogram or more of uranium or thorium source material of any origin shall complete and submit in computer-readable format Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. Each person who receives the material shall submit in accordance with instructions the computer-readable format within ten (10) days after the material is received.

* * * * *

Dated at Rockville, MD, this 7th day of July, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–16941 Filed 7–12–94; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1209

RIN 2700–AB70

Boards and Committees

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending subpart 1209.4, "Inventions and Contributions Board," to reflect the current organizational structure. This regulation describes the functions, authority, and membership of the NASA Inventions and Contributions Board.

EFFECTIVE DATE: June 28, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Paul A. Curto, 202–358–2279.

SUPPLEMENTARY INFORMATION: NASA published 14 CFR Part 1209, subpart 1209.4, on January 31, 1986 (51 FR 3945). This amendment revises section 1209.403 to make an organizational change and makes editorial corrections to section 1209.402.

Since this action is internal and administrative in nature and does not effect existing regulations, no public comment period is required.

NASA has determined that this regulation does not constitute a major rule for the purposes of Executive Order 12866, and it will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 1209

Boards and committees, Organizations and functions (Government agencies).

PART 1209—BOARDS AND COMMITTEES

For reasons set forth in the Preamble, 14 CFR Part 1209, subpart 1209.4, is amended as follows:

Subpart 4—Inventions and Contributions Board

1. The authority citation for subpart 1209.4 of 14 CFR part 1209 continues to read as follows:

Authority: 42 U.S.C. 2457(f) and 2458.

2. In § 1209.402, paragraph (c)(1) is revised to read as follows:

§ 1209.402 Responsibilities.

* * * * *

(c) *Monetary awards for scientific and technical contributions.* (1) Under the authority of 42 U.S.C. 2458 and pursuant to 14 CFR Part 1240, the Board will receive and evaluate each application for award for any scientific or technical contribution to the Administration which is determined to have significant value in the conduct of aeronautical and space activities, will accord each applicant an opportunity for a hearing upon such application, and will then transmit to the Administrator its recommendation as to the amount of the monetary award and terms of the award, if any, to be made for such contribution.

* * * * *

3. § 1209.403 is revised to read as follows:

§ 1209.403 Organizational location.

The Board is established within the Office of Policy Coordination and International Relations.

Dated: June 28, 1994.

Daniel S. Goldin,

Administrator.

[FR Doc. 94–16872 Filed 7–12–94; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 5

RIN 1512–AB22

Agreement Between the United States (US) and the European Union (EU): Geographical Designations

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF), Department of the Treasury.

ACTION: Interpretation of agency regulations.

SUMMARY: The purpose of this document is to inform industry members and the public of an ATF Ruling implementing a recently negotiated distilled spirits agreement between the United States (US) and the European Union (EU).

DATES: The ATF Ruling reproduced in this document became effective on June 9, 1994.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to a bilateral agreement, the United States has agreed to restrict, within its regulatory framework of 27 CFR 5.22, the use of the product designations "Scotch whisky," "Irish whisky/Irish whiskey," "Cognac," "Armagnac," "Calvados," and "Brandy de Jerez" to distilled spirits products produced in certain Member States of the EU. Under the agreement, the EU agreed to restrict, within its regulatory framework of Council Regulation (EU) No. 1576/89, the use of the product designations "Tennessee whisky/Tennessee whiskey," "Bourbon whisky/Bourbon whiskey," and "Bourbon" to distilled spirits products of the United States. In both situations, the products remain subject to all of the labeling requirements of the United States and the EU, respectively.

In implementing the bilateral agreement, the United States believes that an administrative interpretation of the existing regulations is sufficient to afford the restrictive recognition required by the agreement for "Armagnac," "Calvados," and "Brandy de Jerez." The reference to administrative measures in the agreement authorizes the ruling approach for implementing the agreement.

The regulations currently provide restrictive recognition to "Irish whisky/

Irish whiskey," "Scotch whisky," and "Cognac."

The ruling will appear in a future issue of the ATF bulletin. The full and exact text of the ATF Ruling follows for the information and reference of the industry and the public.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

ATF Ruling 94–5

27 CFR 5.22(k)(3): Class 11; geographical designations.

The requirements in 27 CFR 5.22(k)(3) provide that geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. The names "Armagnac," "Calvados," and "Brandy de Jerez" are geographical names within section 5.22(k)(3) and shall not apply to distilled spirits products other than those produced in the particular place or region indicated by such names. Further, such "Armagnac" (France), "Calvados" (France), and "Brandy de Jerez" (Spain) must be produced in accordance with the regulations of the European Union and the laws of the Member States in which those products originate.

In recent negotiations concluding in an exchange of letters between the United States (US) and European Union (EU) regarding distilled spirits, the US agreed to restrict, within its regulatory framework of 27 CFR 5.22 (or equivalent successor regulation) the use of the product designations "Armagnac," "Calvados," "Cognac," "Brandy de Jerez," "Irish whisky/Irish whiskey," and "Scotch whisky" to distilled spirits products of the Member States of the EU, produced in compliance with Council Regulation (EU) No. 1576/89 and with the laws of the Member States in which those products originate. Further, it is recognized that these products shall continue to be subject to all of the labeling requirements of the US for products imported into the US.

In like manner, the EU agreed to restrict, within its regulatory framework of Council Regulation (EU) No. 1576/89, Article 11 (or equivalent successor regulation), the use of the product designations "Bourbon," "Bourbon whisky/Bourbon whiskey," and "Tennessee whisky/Tennessee whiskey," to distilled spirits products of the US, produced in compliance with the laws and regulations (27 CFR 5.22 or equivalent successor regulation) of the US. Further, it is recognized that these products shall continue to be subject to all of the labeling requirements of the EU for products imported into the EU.

The names "Cognac," "Irish whisky/Irish whiskey," and "Scotch whisky" are already restricted to products of France, Republic of Ireland or in Northern Ireland, and Scotland, respectively, by the standard of identity regulations for distilled spirits in 27 CFR 5.22.

Section 5.22(k)(3) of the distilled spirits regulations establishes a standard of identity for products having geographical designations. Under this section, geographical names that are not distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name.

Held: The names "Armagnac," "Calvados," and "Brandy de Jerez" are geographical designations within section 5.22(k)(3) and shall not apply to distilled spirits products other than those produced in the particular place or region indicated by such name. Further, such "Armagnac" (France), "Calvados" (France), and "Brandy de Jerez" (Spain) must be produced in accordance with regulations of the EU and the laws of the Member States in which those products originate.

Held further: "Armagnac," "Calvados," "Cognac," "Brandy de Jerez," "Irish whisky/Irish whiskey," and "Scotch whisky" imported into the US shall continue to be subject to all of the labeling requirements for distilled spirits under 27 CFR Part 5.

July 6, 1994.

Daniel R. Black,

Acting Director.

[FR Doc. 94–16940 Filed 7–12–94; 8:45 am]

BILLING CODE 4810–31–P

Office of the Secretary

31 CFR Parts 51 and 52

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: In view of the repeal of the Revenue Sharing Act, 31 CFR Part 51, "Financial Assistance to Local Governments," and 31 CFR Part 52, "Antirecession Fiscal Assistance to State, Territorial and Local Governments," are being removed.

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas P. O'Malley, Director, Management Programs Directorate, Room 6100, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Telephone Number: (202) 622–0510.

SUPPLEMENTARY INFORMATION: Title XIV of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272 (COBRA), provided for the repeal of the Revenue Sharing Act (31 U.S.C. 6701–6724) effective October 18, 1986. The operations of the Office of Revenue Sharing ceased on the last day of Fiscal Year 87.

Therefore, in accordance with Treasury Order 101–17, "Disestablishment of the Office of Revenue Sharing and Reorganization of Domestic Finance Functions," dated March 24, 1987, which delegated authority for the orderly disestablishment of the Office of Revenue Sharing, 31 CFR Part 51, "Financial Assistance to Local Governments," and 31 CFR Part 52, "Antirecession Fiscal Assistance to State, Territorial and Local Governments," are removed.

Dated: June 29, 1994.

George Muñoz,

Assistant Secretary (Management)/Chief.

[FR Doc. 94–16987 Filed 7–12–94; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF EDUCATION

34 CFR Part 682

RIN 1840-AA96

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects errors in the final regulations for the Federal Family Education Loan Program published in the **Federal Register** on May 17, 1994 (59 FR 25744). The document published on May 17, 1994 contained various corrections and technical changes to the final regulations published on December 18, 1992 (57 FR 60280). However, several amendments included in the May 17, 1994 document did not reflect the publication of intervening amendments. This document therefore corrects the

May 17, 1994 final regulations by removing these amendments.

EFFECTIVE DATE: This correction is effective May 17, 1994.

FOR FURTHER INFORMATION CONTACT: Pamela Moran or Patricia Beavan, Policy Section, Loans Branch, Policy Development Division, Policy, Training, and Analysis Service, Department of Education, 400 Maryland Avenue SW., (room 4310, ROB–3) Washington, DC 20202. Telephone 202–708–8242. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: July 7, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The following corrections are made in FR Doc. 94-11656, published on May 17, 1994 (59 FR 25744):

1. On page 25745, columns 2 and 3, the amendments to § 682.202 in item 7 are removed.

2. On page 25746, column 3, the amendments to § 682.402 in item 17 are removed.

3. On page 25747, column 1, in the amendments to § 682.410 in item 20, remove "; in paragraph (b)(6)(iii)(A) before the semicolon, add ', unless the notice was previously sent pursuant to paragraph (b)(5)(ii) of this section' ".

4. On page 25747, column 2, the amendments to § 682.413 in item 22 are removed.

[FR Doc. 94–16904 Filed 7–12–94; 8:45 am]

BILLING CODE 4000–01–P

POSTAL SERVICE

39 CFR Part 266

Revision of Regulations To Exempt Privacy Act Systems of Records

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Postal Service regulations exempt certain systems of records that it maintains from certain provisions of the Privacy Act. This rule does not alter past application of exemptions but merely provides an explanation of the reasons for applying specific exemptions to certain systems of records.

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, Records Officer, (202) 268–2924.

SUPPLEMENTARY INFORMATION: Postal Service regulations (39 CFR 266.9) exempt certain systems of records from specific provisions of the Privacy Act. This rule amends those regulations to include the reasons for applying the exemptions. Those reasons were stated in the preamble of the notice of proposed rulemaking at the time the Postal Service adopted the exemptions. 40 FR 37227 (August 26, 1975).

The proposed rule with invitation to comment was published in the **Federal Register**. 59 FR 17749 (April 14, 1994). No comments were received.

List of Subjects in 39 CFR Part 266

Privacy.

For the reasons set out in this document, the Postal Service amends part 266 of 39 CFR as follows:

PART 266—PRIVACY OF INFORMATION

1. The authority citation for part 266 continues to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552a.

2. Section 266.9 is revised to read as follows:

§ 266.9 Exemptions.

(a) Subsections 552a(j) and (k) of title 5, U.S.C., empower the Postmaster General to exempt systems of records meeting certain criteria from various other subsections of section 552a. With respect to systems of records so exempted, nothing in this part shall require compliance with provisions hereof implementing any subsections of section 552a from which those systems have been exempted.

(b) At paragraph (b)(1) of this section is a summary of the Act's provisions for which exemption is claimed pursuant to, and to the extent permitted by, subsections 552a(j) and (k) of title 5, U.S.C., for some systems of records. Paragraphs (b)(2) through (6) of this section identify the exempted systems of records, the exemptions applied to each, and the reasons for the exemptions:

(1) *Explanation of the Act's provisions for which an exemption is claimed in the systems discussed below.* (i) Subsection (c)(3) requires an agency to make available to the individual named in the records an accounting of each disclosure of records.

(ii) Subsection (c)(4) requires an agency to inform any person or other agency to which a record has been disclosed of any correction or notation of dispute the agency has made to the record in accordance with subsection (d) of the Act.

(iii) Subsection (d)(1)–(4) requires an agency to permit an individual to gain access to records about the individual, to request amendment of such records, to request a review of an agency decision not to amend such records, and to provide a statement of disagreement about a disputed record to be filed and disclosed with the disputed record.

(iv) Subsection (e)(1) requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose required by statute or executive order of the President.

(v) Subsection (e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under federal programs.

(vi) Subsection (e)(3) requires an agency to inform each person whom it asks to supply information of the authority under which the information is sought, the purposes for which the information will be used, the routine uses that may be made of the information, whether disclosure is mandatory or voluntary, and the effects of not providing the information.

(vii) Subsection (e)(4) (G) and (H) requires an agency to publish a **Federal Register** notice of its procedures whereby an individual can be notified upon request whether the system of records contains information about the individual, how to gain access to any record about the individual contained in the system, and how to contest its content.

(viii) Subsection (e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any determination about the individual.

(ix) Subsection (e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

(x) Subsection (f) requires an agency to establish procedures whereby an individual can be notified upon request if any system of records named by the individual contains a record pertaining to the individual, obtain access to the record, and request amendment.

(xi) Subsection (g) provides for civil remedies if an agency fails to comply with the access and amendment

provisions of subsections (d)(1) and (d)(3), and with other provisions of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

(xii) Subsection (m) requires an agency to cause the requirements of the Act to be applied to a contractor operating a system of records to accomplish an agency function.

(2) *Inspection Requirements—Investigative File System, USPS 080.010; Inspection Requirements—Mail Cover Program, USPS 080.020.* These systems of records are exempt from 5 U.S.C. 552a (c) (3) and (4), (d)(1)–(4), (e)(1)–(3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), and (m). The reasons for exemption follow:

(i) Disclosure to the record subject pursuant to subsections (c)(3), (c)(4), or (d)(1)–(4) could (A) Alert subjects that they are targets of an investigation or mail cover; (B) alert subjects of the nature and scope of the investigation, and of evidence obtained; (C) enable the subject of an investigation to avoid detection or apprehension; (D) subject confidential sources, witnesses, and law enforcement personnel to harassment or intimidation if their identities were released to the target of an investigation; (E) constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation; (F) intimidate potential witnesses and cause them to be reluctant to offer information; (G) lead to the improper influencing of witnesses, the destruction or alteration of evidence yet to be discovered, the fabrication of testimony, or the compromising of classified material; and (H) seriously impede or compromise law enforcement, mail cover, or background investigations that might involve law enforcement aspects as a result of the above.

(ii) Application of subsections (e)(1) and (e)(5) is impractical because the relevance, necessity, or correctness of specific information might be established only after considerable analysis and as the investigation progresses. As to relevance (subsection (e)(1)), effective law enforcement requires the keeping of information not relevant to a specific Postal Service investigation. Such information may be kept to provide leads for appropriate law enforcement and to establish patterns of activity that might relate to the jurisdiction of the Postal Inspection Service and/or other agencies. As to accuracy (subsection (e)(5)), the correctness of records sometimes can be established only in a court of law.

(iii) Application of subsections (e)(2) and (e)(3) would require collection of information directly from the subject of a potential or ongoing investigation. The subject would be put on alert that he or she is a target of an investigation or mail cover, enabling avoidance of detection or apprehension, thereby seriously compromising law enforcement, mail cover, or background investigations involving law enforcement aspects. Moreover, in certain circumstances the subject of an investigation is not required to provide information to investigators, and information must be collected from other sources.

(iv) The requirements of subsections (e)(4)(G) and (H), and (f) do not apply because this system is exempt from the individual access and amendment provisions of subsection (d). Nevertheless, the Postal Service has published notice of its notification, access, and contest procedures because access is appropriate in some cases.

(v) Application of subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(vi) The provisions of subsection (g) do not apply because exemption from the provisions of subsection (d) renders the provisions on suits to enforce subsection (d) inapplicable.

(vii) If one of these systems of records is operated in whole or in part by a contractor, the exemptions claimed herein shall remain applicable to it (subsection (m)).

(3) *Personnel Records—Preemployment Investigation Records, USPS 120.110; Personnel Records—Postmaster Selection Program Records, USPS 120.130.* These systems of records are exempt from 5 U.S.C. 552a(d)(1)–(4) and (e)(1) to the extent that information in the system is subject to exemption under 5 U.S.C. 552a(k)(5) as relating to the identity of a source who furnished information to the government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment. The reasons for exemption follow:

(i) During its investigation and evaluation of an applicant for a position, the Postal Service contacts individuals who, without an assurance of anonymity, would refuse to provide information concerning the subject of the investigation. If a record subject were given access pursuant to subsection (d)(1)–(4), the promised confidentiality would be breached and the confidential source would be identified. The result would be restriction of the free flow of information vital to a determination of an individual's qualifications and suitability for appointment to or continued occupancy of his position.

(ii) In collecting information for investigative and evaluative purposes, it is impossible to determine in advance what information might be of assistance in determining the qualifications and suitability of an individual for appointment. Information that seems irrelevant, when linked with other information, can sometimes provide a composite picture of an individual that assists in determining whether that individual should be appointed to or retained in a position. For this reason, exemption from subsection (e)(1) is claimed.

(4) *Personnel Records—Personnel Research and Test Validation Records, USPS 120.120; Personnel Records—Career Development and Training Records, USPS 120.152.* These systems of records are exempt from 5 U.S.C. 552a(d)(1)–(4), (e)(4)(G) and (H), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(6) as relating to the compromise of the objectivity or fairness of the testing or examination process. The reasons for exemption follow:

(i) These systems contain questions and answers to standard testing materials, the disclosure of which would compromise the fairness of the future use of these materials. It is not feasible to develop entirely new examinations after each administration as would be necessary if questions or answers were available for inspection and copying. Consequently, exemption from subsection (d) is claimed.

(ii) The requirements of subsections (e)(4)(G) and (H), and (f) do not apply to these systems for which exemption from subsection (d) of the Act has been claimed. Nevertheless, the Postal Service has published notice of its notification, access, and contest procedures because access to system records that do not compromise the objectivity or fairness of the testing examination process is appropriate in some cases.

(5) *Personnel Records—Recruiting, Examining, and Appointment Records, USPS 120.151.* This system is exempt from 5 U.S.C. 552a(d)(1)–(4), (e)(1), (e)(4)(G) and (H), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(5) as relating to the identity of a source who has furnished information to the government in confidence as part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment; and to exemption pursuant to subsection 5

U.S.C. 552a(k)(6) as relating to the compromise of the objectivity or fairness of the testing or examination process. The reasons for exemption follow:

(i) To the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(5), application of the provisions at subsection (d)(1)–(4) would reveal to the applicant whose suitability is being investigated the identity of individuals who supplied information under a promise of anonymity. As a result, the Postal Service's promise of confidentiality would be breached, its ability to obtain information in the future would be diminished, and the information source could be subjected to harassment by the applicant. To the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(6), the requirements of the exemption at subsection (d)(1)–(4) and the reasons for exempting information relating to the compromise of the objectivity or fairness of the testing or examination process are the same as those given in paragraph (b)(5)(i) of this section.

(ii) The reasons for exempting this system of records from subsection (e)(1) are the same as those given in paragraph (b)(4)(ii) of this section.

(iii) The requirements of subsections (e) (4) (G) and (H), and (f) do not apply to this system for which exemption from subsection (d) of the Act has been claimed. Nevertheless, the Postal Service has published notice of its notification, access, and contest procedures because access to system records that do not compromise the objectivity or fairness of the testing or examination process or reveal the identity of a confidential is appropriate in some cases.

(6) *Equal Employment Opportunity—EEO Discrimination Complaint Investigations, USPS 030.010.* This system is exempt from 5 U.S.C. 552a(d)(1)–(4), (e) (4) (G) and (H), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes and subsection (k)(5) as relating to the identity of a source who has furnished information to the government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment. The reasons for exemption follow.

(i) To the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2), application of the requirements of the exemption at subsection (d)(1)–(4) would cause disruption of enforcement of the laws relating to equal employment opportunity (EEO). To the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(5), application of the provisions at subsection (d)(1)–(4) would reveal to the EEO complainant the identity of individuals who supplied information under a promise of anonymity. It is essential to the integrity of the EEO complaint system that information collected in the investigative process not be prematurely disclosed and that witnesses be free from restraint, interference, coercion, or reprisal.

(ii) The requirements of subsections (e) (4) (G) and (H), and (f) do not apply to this system for which exemption from subsection (d) of the Act has been claimed. Nevertheless, the Postal Service has published notice of its notification, access, and contest procedures because access to system records that do not compromise the investigative process or reveal the identity of confidential sources is appropriate in some cases.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–16875 Filed 7–12–94; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F3607/R2071; FRL–4900–3]

RIN 2070–AB78

Pesticide Tolerances for Glufosinate Ammonium

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes time-limited tolerances for residues of the herbicide glufosinate ammonium [ammonium DL-homoalanine-4-yl-(methyl phosphinate)] and its metabolite, 3-methylphosphinico-propionic acid, in or on raw agricultural commodities (RAC's) apples and grapes at 0.05 part per million (ppm) and tree nuts group (except almonds) at 0.1 ppm. Hoechst Celanese Corp. (now AgrEvo) requested these tolerances in petitions submitted to EPA.

EFFECTIVE DATES: This regulation becomes effective July 13, 1994. The tolerances will expire July 13, 1999.

ADDRESSES: Written objections, identified by the document control number, [PP 8F3607/R2071], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joanne I. Miller, Product Manager (PM) 23, (7505C), Registration Division, Environmental Protection Agency, 401 M St., Washington, DC 20460. Office location and telephone number: Rm 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 25, 1988 (53 FR 18897), EPA issued a notice announcing that Hoechst Celanese Corp., Route 202-208 North, Sommerville, NJ 08878, had submitted a pesticide petition (PP 8F3607) proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a, to permit the residues of the herbicide monoammonium 2-amino-4-(hydroxymethylphosphinyl)-butanoate (expressed as 2-amino-4-(hydroxymethylphosphinyl)-butanoic acid) and 3-methylphosphinicopropionic acid (expressed as 2-amino-4-(hydroxymethylphosphinyl)-butanoic acid), in or on soybean seed, apples, grapes, field corn (grain, forage, silage, and fodder), and nuts at 0.05 ppm and almond hulls at 0.50 ppm. This petition was assigned the number 8F3607. The proposed analytical method for determining residues was high-pressure liquid chromatography.

There were no comments of request for referral to an advisory committee received in response to the notice of filing.

The petitioner subsequently amended the petition by withdrawing the tolerance proposal for residues of the active ingredient and its metabolite in or on soybean seed, field corn grain, field corn forage, field corn silage, and field corn fodder. Since this revision decreases the pesticide burden on the environment, it was not published for comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of these tolerances.

1. A battery of acute toxicity studies placing technical glufosinate-ammonium in Toxicity Categories II and III.

2. A 90-day feeding study in rats at dietary intakes of 0, 0.52, 4.1, 32, or 263 mg/kg/day with a no-observed-effect level (NOEL) of 4.1 mg/kg/day. The lowest-observed-effect level (LOEL) was

established at 32 mg/kg/day based on increased absolute and relative kidney weights.

3. A 90-day feeding study in mice at dietary intakes of 0, 16.6, 67.1, or 278 mg/kg/day with a NOEL of 16.6 mg/kg/day and a LOEL of 67.1 mg/kg/day based on increased absolute and relative liver weights (both sexes) and an increase in serum potassium levels (males).

4. Three teratology studies in rats at doses from 0.5 to 250 mg/kg/day with no teratogenic effects occurring up to and including 250 mg/kg/day. A NOEL for developmental toxicity was 2.24 mg/kg/day, based upon an increase in the incidence of dilated renal pelvis with hydroureter in the fetuses at 10 mg/kg/day. The maternal NOEL was also 2.24 mg/kg/day.

5. A teratology study in rabbits at doses of 0, 2, 6.3, or 20 mg/kg/day with no teratogenic effects occurring up to and including 20 mg/kg/day, and a maternal NOEL of 6.3 mg/kg/day and a developmental NOEL of 20 mg/kg/day, the highest dose tested.

6. A two-generation reproduction study in rats at dietary concentrations of 0, 40, 120, or 360 ppm with a NOEL for reproductive effects at 120 ppm (equivalent to 12 mg/kg/day) based upon reduced number of pups in the high dose group. The NOEL for parental toxicity was also 120 ppm based upon increased kidney weights in the high-dose group.

7. A 12-month feeding study in dogs at doses of 0, 2, 5, or 8.5 mg/kg/day. The NOEL was 5.0 mg/kg/day based upon the death of one male and one female dog at 8.5 mg/kg/day with no other treatment-related toxicity.

8. A mouse carcinogenicity study at doses of 0, 2.8, 10.8, or 22.7 mg/kg/day in males and 0, 4.2, 16.2, or 64.0 mg/kg/day in females for 104 weeks with no carcinogenic effects observed under the conditions of the study up to and including 64 mg/kg/day and a systemic NOEL of 10.8 and 16.2 for males and females, respectively, based on the dose-related increase in mortality.

9. A chronic feeding/carcinogenicity study in rats at dietary doses of 0, 2.5, 8.8, or 31.5 mg/kg/day (males) and 0, 2.4, 8.2, or 28.7 mg/kg/day (females) with a NOEL of 2.1 mg/kg/day for systemic effects based on an increase in mortality rate in females at the two higher doses. There were no treatment-related carcinogenic effects at any dose level.

10. Acceptable studies on gene mutation (Salmonella, E. coli, and mouse lymphoma assays), structural chromosomal aberration (*in vivo* micronucleus assay in mice), and other genotoxic effects (unscheduled DNA synthesis assay with rat hepatocytes) yielded negative results.

11. Pharmacokinetic and metabolism studies which indicated that approximately 80 to 90 percent of the orally administered dose of glufosinate ammonium remained unabsorbed and was eliminated in the feces. Approximately 10 to 15 percent was eliminated in the urine. The major metabolic pathway is oxidative deamination yielding the metabolite, 3-methyl-phospinico propionic acid.

The chronic analysis used a Reference Dose (RfD) of 0.02 mg/kg body weight/day, based on a NOEL of 2.1 mg/kg/day and an uncertainty factor of 100. The NOEL is based on a 2-year rat feeding study that demonstrated increased absolute and relative kidney weight in males as an endpoint effect.

Using tolerance-level residues and assumptions that 100 percent of every crop for which glufosinate-ammonium has a proposed use is treated, the total Theoretical Maximum Residue Contribution (TMRC) for the general population and the highest exposed subgroup in DRES are as follows (as percents of RFD): General population, 0.3 percent; nonnursing infants less than 1 year old, 2.1 percent.

A data gap currently exists for a rat carcinogenicity study. The tolerances will be time-limited because of this gap. The time limitation allows for development and review of the data.

The analysis for glufosinate-ammonium using tolerance level residues suggests that the proposed uses on apples, grapes, and nuts (excluding almonds) will not cause exposure to exceed the levels at which the Agency believes there is an appreciable risk. All DRES subgroups are below 100 of the RfD for chronic effects.

The pesticide is useful for the purposes for which these tolerances are sought. The nature of the residue is adequately understood for the purpose of establishing these tolerances. Adequate analytical methodology (gas chromatography with flame photometric detection of phosphorus) is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication, the enforcement methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from: Calvin Furlow, Public Response Branch, Field Operations Division (7506C), Office of Pesticide Programs. Environmental Protection Agency, 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1130A, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5937.

There are currently no actions pending against the registration of this chemical. There is no reasonable expectation that secondary residues will occur in meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, or poultry, nor is there any reasonable expectation that secondary residues will occur in eggs or milk.

Based on the information cited above, the Agency has determined that the establishment of the tolerances by amending 40 CFR part 180 will protect the public health; therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue (s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 1798.32

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerance or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 1, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding new § 180.473, to read as follows:

§ 180.473 Glufosinate ammonium; tolerances for residues.

(a) Tolerances, to expire on July 13, 1999, are established for residues of the herbicide glufosinate ammonium [ammonium DL-homoalanine-4-yl-(methyl phosphinate)] and its metabolite, 3-methylphosphinico-propionic acid, in or on the following raw agricultural commodities:

Commodity	Parts per million
Apples	0.05
Grapes	0.05
Tree nuts group (except almonds)	0.1

(b) Residues in these commodities not in excess of the established tolerance resulting from the use described in paragraph (a) of this section remaining after expiration of time-limited tolerance will not be considered to be actionable if the herbicide is applied during the term of and in accordance with the provisions of the above regulation.

[FR Doc. 94–16857 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300304A; FRL–4896–7]

RIN 2070–AB78

N,N-Bis 2-(Omega-Hydroxypolyoxyethylene/ Polyoxypropylene) Ethyl Alkylamine; Tolerance Exemption; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: This document corrects the amendatory language to an amendment to a listing for *N,N-bis* 2-(*omega*-hydroxypolyoxyethylene/ polyoxypropylene) ethyl alkylamine in 40 CFR 180.1001(d) table to stipulate that a revision of the already existing entry was to be made, not the addition of a new entry, and to correct "360 moles" in the table entry to read "3-60 moles."

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Tina Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8393.

SUPPLEMENTARY INFORMATION: In FR Doc. 94-277 in the **Federal Register** of January 7, 1994, the amendatory language at page 952 in the second column incorrectly stated that the entry was to be added. The amendatory language is corrected to state that the entry was to be revised. The entry in the § 180.1001(d) table also incorrectly stated "360 moles" but the preexisiting entry had clearly stated that the proper amount is 3-60 moles: the 360 mole amount is the result of an inadvertently omitted hyphen. Therefore, the entry is corrected to state "3-60 moles."

Dated: June 21, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 94–16858 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180, 185, and 186

[OPP–300323; FRL–4759–3]

RIN 2070–AC18

Carbophenothion; Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes all food tolerances for residues of the insecticide carbophenothion, all food additive tolerances, and all feed tolerances. EPA is taking this action because all registered uses of carbophenothion on these commodities have been cancelled.

EFFECTIVE DATE: This regulation becomes effective July 13, 1994.

ADDRESSES: Written objections and hearing requests, identified by the document control number [OPP-300323], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and should also be submitted to: Public Response and Program Resources Branch, Field Operations Division (7605C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver objections and hearing requests filed with the Hearing Clerk to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA, Headquarters Accounting Operations Branch, OPP (tolerance fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Paul Parsons, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, 2800 Crystal Drive, Arlington, VA (703-308-8037).

SUPPLEMENTARY INFORMATION: This document announces the revocation of tolerances established under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346(a) and 348), for residues of the insecticide carbophenothion in or on the commodities listed in 40 CFR 180.156, 40 CFR 185.700, and 40 CFR 186.700. These commodities are: alfalfa (fresh and hay); almond hulls; apples; apricots; beans (dry); beans, lima (succulent); beans, snap (succulent); bean straw; beets, garden (root and top); blueberries; cantaloupe; cattle fat; cherries; clover (fresh and hay); corn (kernels plus cob with husks removed); corn forage; cottonseed, undelinted; crabapples; cucumbers; eggplants; figs; goats, fat; grapefruit; grapes; hogs, fat; lemons; limes; milk; nectarines; olives; onions (dry bulb and green); oranges; peaches; pears; peas (succulent); pecans; peppers; pimentos; plums (fresh prunes); quinces; sheep, fat; sorghum, forage; sorghum, grain; soybeans (succulent); spinach; strawberries; sugarbeets (roots and tops); summer squash; tangerines; tomatoes; walnuts and watermelons (180.156); dried tea (185.700); and dehydrated citrus pulp and citrus meal for cattle feed (186.700).

EPA issued a proposed rule, published in the **Federal Register** of October 21, 1993 (58 FR 54316), which proposed the revocation of tolerances

for residues of carbophenothion in or on various commodities. The Agency's decision to revoke these tolerances was based on the fact that all registered uses of carbophenothion products have been cancelled and any provision for sales and/or distribution of stocks has expired.

The Agency believes that sufficient time has passed for legally treated agricultural commodities to have gone through the channels of trade. Since it is unlikely that carbophenothion, which is not a persistent pesticide, would persist in soil more than 4 years, there is no anticipation of a residue problem due to environmental contamination. Consequently, no action levels are being recommended to replace these revoked tolerances. No public comments or requests for referral to an advisory committee were received in response to the notice of proposed rulemaking. Therefore, based on the information considered by the Agency and discussed in detail in the October 21, 1993 proposal and in this final rule, the Agency is hereby revoking the tolerances listed in 40 CFR 180.156, 40 CFR 185.700 and 40 CFR 186.700.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competiton, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 23, 1994.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR parts 180, 185, and 186 are amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.156 [Removed]

b. Section 180.156 *Carbophenothion; tolerances for residues* is removed.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 185.700 [Removed]

b. Section 185.700 *Carbophenothion; tolerances for residues* is removed.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 186.700 [Removed]

b. Section 186.700 *Carbophenothion; tolerances for residues* is removed.

[FR Doc. 94–16856 Filed 7–12–94; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 362

RIN 3067–AB84

National Earthquake Hazards Reduction Program; Criteria for Acceptance of Gifts, Bequests, or Services

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule establishes criteria for determining whether the Director of FEMA may accept gifts, bequests or donations of services, money or property for the National Earthquake Hazards Reduction Program (NEHRP).

EFFECTIVE DATE: August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Summers Taylor, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3079.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) published a proposed rule, "National Earthquake Hazards Reduction Program; Criteria for Acceptance of Gifts, Bequests, or Services," on July 9, 1992, 57 FR 30455. Comments from the public were invited but, since publication, none have been received. The Agency is now publishing the final rule with minor editorial changes in the preamble.

Under 31 U.S.C. 1342, officers and employees of the United States Government may not accept voluntary

services or employ personal services exceeding those authorized by law except for emergencies involving the safety of human life or the protection of property. Unless expressly authorized by law to do so, Federal officers and employees may not accept gifts or bequests of property or money. The general rule is that appropriations may not be augmented with funds or property from private sources unless specifically authorized by law.

Under section 9 of the National Earthquake Hazards Reduction Program Reauthorization Act, 42 U.S.C. 7705c, the Director of FEMA may accept and use bequests, gifts, or donations of services, money or property. Section 9(b) of the Act requires the Director to establish by regulation criteria for accepting such bequests, gifts, or donations, and to take into consideration the impact of such acceptance on the Director's ability to conduct business fairly and objectively, or its impact on the integrity of the National Earthquake Hazards Reduction Program (NEHRP). This authority is similar to that granted by other statutes to other agencies in the NEHRP and the Federal Government.

These regulations establish the required criteria for determining whether to accept bequests, gifts, or donations of services, money or property to further the purposes of the NEHRP.

National Environmental Policy Act. This rule is categorically excluded from the requirements for environmental assessments of 44 C.F.R. part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule states how FEMA will administer acceptance of gifts, bequests, or services, defines the criteria for acceptance of gifts, bequests, or services to the National earthquake Hazards Reduction Program, and is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities, nor (2) to create any additional burden on small entities.

Regulatory Planning and Review. This rule is not a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible this final rule adheres to the principles of regulation as set forth in Executive Order 12866.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 362

Disaster assistance, Earthquakes, Government property.

Accordingly, 44 CFR part 362 is added to read as follows:

PART 362—CRITERIA FOR ACCEPTANCE OF GIFTS, BEQUESTS, OR SERVICES

Sec.

362.1 Purpose.
362.2 Definitions.
362.3 Criteria for determining acceptance.

Authority: 42 U.S.C. 7701, 7705c.

§ 362.1 Purpose.

This part establishes criteria for determining whether the Director may accept gifts, bequests, or donations of services, money or property for the National Earthquake Hazards Reduction Program (NEHRP), under section 9 of the National Earthquake Hazards Reduction Program Reauthorization Act, 42 U.S.C. 7705c.

§ 362.2 Definitions.

As used in this part—

Gifts of property means a gratuitous, voluntary transfer or conveyance of ownership in property by one person to another without any consideration, including transfer by donation, devise or bequest.

Gifts of services means a gratuitous, voluntary offer of labor or professional work by one person to another without any compensation for that labor or professional work.

Program Agencies means the Federal Emergency Management Agency, the United States Geological Survey, the National Science Foundation, and the National Institute of Standards and Technology.

Property means real or personal property, tangible or intangible, including money, certificates of stocks, bonds, or other evidence of value.

Services means labor or professional work performed for the benefit of another or at another's command.

Solicit means to endeavor to obtain by asking or pleading.

§ 362.3 Criteria for determining acceptance.

The following criteria shall be applied whenever a gift of property or gift of services is offered to the Director for the benefit of the National Earthquake Hazards Reduction Program.

(a) The gift of property or gift of services must clearly and directly further the objectives of the National Earthquake Hazards Reduction Program, as defined in 42 U.S.C. 7702.

(b) All gifts of property must be offered unconditionally, with sole discretion of use, administration and disposition of such property to be determined by the Director or his designee.

(c) The Director may accept and use gifts of services of voluntary and uncompensated personnel, and may provide transportation and subsistence as authorized by 5 U.S.C. 5703 for persons serving without compensation.

(d) Employees of FEMA or the Program agencies may not solicit gifts of property, or gifts of services.

(e) Acceptance of gifts of property, or gifts of services must first be approved by the Office of the General Counsel, FEMA, for conformance with all applicable laws and regulations.

(f) In all cases where it is determined that the acceptance of a gift may create a conflict of interest, or the appearance of a conflict of interest, the gift will be declined.

Dated: July 1, 1994.

James Lee Witt,

Director.

[FR Doc. 94–16733 Filed 7–12–94; 8:45 am]

BILLING CODE 6718–21–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[PP Docket No. 93–21; FCC 94–149]

Sports Programming Migration

AGENCY: Federal Communications Commission.

ACTION: Final report.

SUMMARY: The *Final Report* of the FCC's sports migration inquiry finds that there has not been significant migration of sports programming from broadcast to subscription media, but expresses concern about a decline in broadcast coverage of college football games in some markets. In the *Final Report*, the Commission states its intention to monitor sports programming availability and to act promptly, consistent with its statutory authority, should any

significant threat to that availability develop.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Office of Plans and Policy, (202) 418–2048.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Final Report* in PP Docket No. 93–21, adopted June 9, 1994 and released June 30, 1994. The complete text of this *Final Report* is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., at 1919 M Street NW., room 246, Washington, DC 20554 (telephone: (202) 857–3800).

In section 26 of the 1992 Cable Act, Congress instructed the Commission to conduct an examination of "the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services," and "the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations" or are prohibited by existing statutes. Congress directed the FCC to submit to it an *Interim Report* by July 1, 1993 (see 58 FR 38088, July 15, 1993) and a *Final Report* by July 1, 1994, including legislative or regulatory recommendations as appropriate.

The Commission defined sports programming migration as "the movement of sports programming from broadcast television to a subscription medium (*i.e.*, one for which viewers pay a fee)." The inquiry focused on professional baseball, football, basketball and hockey and college football and basketball. The Commission looked at the time period from 1980 to the present and examined local and national telecasts.

The Commission found no evidence of migration of National Football League or college basketball games. At the national level, it saw no evidence of migration of professional basketball or hockey games. In fact, it found instances of "reverse migration" in hockey at the national level. At the local level, there have been some declines in broadcast coverage of professional basketball and hockey, but no overall pattern of migration.

The inquiry determined that national broadcast coverage of regular season Major League Baseball games has declined, but found evidence that the drop is due to reduced demand rather than migration. Local broadcast coverage of baseball has increased for most teams, but declined significantly in a few cases. The Commission concluded that there was no pattern of migration of local baseball games. ESPN provides some national cable coverage of regular season baseball games. While ESPN has exclusivity *vis-a-vis* local broadcasters on Wednesday nights, this appears to have had little effect on total games broadcast. Rather, it has been associated with an increase in games televised on days other than Wednesday.

The Commission found evidence of a decline in college football broadcasts in some markets between 1984 and 1993, but could not isolate the cause of the decline. The Commission expressed concern about the decline, but noted that new college football contracts now being negotiated may lead to an increase in network coverage.

"Preclusive contracts" are defined in the 1992 Cable Act as contracts between college athletic conferences and video programming vendors that prohibit local television stations from broadcasting live games of local college teams that are not carried live by a local cable system or prohibit tape delay broadcasts of local college games that are not carried live or on tape delay by a local cable system.

The Commission's inquiry found no evidence of such preclusive contracts for college basketball, but questions were raised in the case of college football. In the *Interim Report* the Commission noted that it would use the "rule of reason" framework to analyze contracts of this type, as suggested to it by the Department of Justice. The Commission's analysis of typical contract terms suggested that, without the sort of factual evidence presented at a full-scale trial, it could not determine whether the contracts violated the antitrust laws. There was no suggestion that the contracts might violate other statutes.

The Commission found that there is a substantial amount of sports programming available on broadcast television, including the "marquee" events of all the major sports. Because the Commission's interest in the availability to the public of a diverse menu of programming encompasses both sports and non-sports programming, the *Final Report* concluded that additional government intervention to promote free access to sports programming, whether via regulation of preclusive contracts or by some other means, is not warranted at this time.

Although it found that no legislative or regulatory recommendations in the area of sports programming migration are necessary, the Commission noted its continuing concern regarding broad and economical public access to sports programming and said it would take action if any significant threat to such access developed in the future. Moreover, the Commission urged interested parties to file legitimate complaints in the event that current or future college football contracts artificially and unfairly constrain local stations' access to local teams' games and committed itself to pursue such complaints vigorously and promptly. In addition, the Commission said it would transmit the *Final Report* to the Department of Justice and the Federal Trade Commission.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 94–16878 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 43

[CC Docket No. 92–296; FCC 94–174]

Simplification of the Depreciation Process

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is adopting range for the underlying factors that are used to compute depreciation rates for the local exchange carriers (LECs) regulated under the price cap incentive regulatory plan. This *Second Report and Order* establishes ranges for 22 of the 33 depreciation rate categories. LECs may make streamlined filings for changes in depreciation rates for these categories, if their underlying factors fall within the prescribed ranges. The rule change will lessen the depreciation prescription burden on price caps LECs in light of regulatory and market changes without sacrificing protection for consumers.

EFFECTIVE DATE: August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Fatina K. Franklin or John Hays, Common Carrier Bureau, accounting and Audits Division, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* in the Simplification of the Depreciation Prescription Process, CC Docket No. 92–296, FCC 94–174, adopted June 22 1994 and released June 28, 1994. The full text of this Commission decision in available for

inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M St., Washington, DC. The full text will be published in the FCC Record and may also be purchased from the Commission's copy contractor, International Transcription Services, room 246, 1919 M Street, NW., Washington, DC 20554.

Paperwork Reduction Act

The Federal Communications Commission has submitted the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3507. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 322, New Executive Office Building, Washington, DC 20503, (202) 395–3561. For further information, contact Judy Boley, Federal Communications Commission, (202) 632–7513.

Please note: The Commission has requested emergency review of this collection by July 22, 1994, under the provisions of 5 C.F.R. Section 1320.18.

Title: Section 43.43—Report of Proposed Changes in Depreciation Rates.

OMB Control No.: 3060–0168.

Action: Revised collection.

Respondents: Businesses or other for-profit entities.

Frequency of Response: On occasion; Triennially; Annually.

Estimated Annual Burden: 12 responses; 7500 hours per response; 90,000 hours total.

Needs and Uses: In the *Report and Order* in CC Docket No. 92–296 (released 10/20/93), the Commission streamlined its depreciation prescription process for local exchange carriers (LECs) regulated under its price cap regulatory scheme by adopting a modified form of the basic factor range option. The *Second Report and Order* adopts the initial set of accounts and ranges for the price caps LECs. The Commission has modified its information collection requirements whereby large LECs must submit analyses on proposed changes in depreciation rates. The changes should reduce by 25% the amount of time needed to prepare and review these analyses. The information will be used by the Commission staff to establish proper depreciation rates to be charged by the carriers pursuant to Section 220(b) of the Communications Act, as amended. 47 U.S.C. § 220(b).

The foregoing estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the burden estimates or any other aspect of the collection of information including suggestions for reducing the burden to the Federal Communications Commission, Records Management Division, Paperwork Reduction Project, Washington, DC 20554 and to the Office of the Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Summary

1. On September 23, 1993, we adopted streamlined depreciation prescription procedures for the local exchange carriers ("LECs") regulated under our price cap incentive regulatory plan.[1] These procedures require us to establish ranges for the underlying factors that are used to compute depreciation rates for plant categories. The new procedures generally will permit carriers to make streamlined filings for changes in depreciation rates for these categories, as long as their underlying factors fall within the prescribed ranges. By adopting these streamlined procedures, we hoped to simplify the depreciation process, achieve administrative savings, and allow the LECs greater flexibility[2] in the depreciation process, while remaining consistent with the public interest.

2. We further concluded that the streamlined procedures should be implemented as soon as practicable. To that end, we decided to implement the new procedures in two phases. In phase one, we directed the Common Carrier Bureau to identify the accounts most readily adaptable to the range approach and propose ranges for them. In phase two, we will establish ranges for the remaining, more complex accounts, to the extent feasible.

3. On November 8, 1993, we adopted an *Order Inviting Comment*[3] on 22 plant categories selected by the Bureau for initial implementation of the streamlined procedures. These categories represent two-thirds of the 33 plant categories for which carriers currently submit depreciation studies. In addition, the *OIC* sought comments on the proposed projection life and future net salvage ranges proposed by the Bureau for these categories.

4. In response to the *OIC*, the LECs and the United States Telephone Association (USTA) maintained that, to maximize the benefits of the simplification procedures, ranges should be established for all accounts as quickly as possible. They argued that the limited number of accounts for which ranges have been proposed in phase one severely restricts the benefits of streamlining depreciation. On the other hand, MCI, the National Association of Regulatory Utility Commissioners (NARUC) and the state commissions supported the 22 plant categories proposed in the *OIC* for implementation in phase one of the simplification process.

5. We agree with the commenters that the ranges should be established as soon as possible. However, to begin the simplification process in 1994, it is necessary to implement the streamlined depreciation procedures in two phases and to limit the initial phase to certain categories of plant readily adaptable to the range approach. As we stated in the *Depreciation Simplification Order*, this schedule will make the most efficient use of our limited resources. To change our plans at this time and to perform the thorough analyses required to establish appropriate ranges for additional plant accounts would delay unnecessarily the use of the new procedures for the depreciation categories identified in the *OIC*. The commenting parties have presented no new information or arguments that would warrant a change in our plans.

6. Prior to the release of the *Notice of Proposed Rulemaking* in this proceeding, the staff of the Common Carrier Bureau had been considering ways to improve and to streamline the depreciation prescription process. The staff collected a substantial amount of data and performed analyses to determine the difficulty of establishing ranges for various accounts. Based on these analyses, it concluded that the 22 plant categories proposed in the *OIC* were the categories most adaptable to the range approach, because their life and salvage factors did not vary substantially among the carriers, or over time. The commenting state commissions generally concur with this conclusion.

7. We estimate that instituting these procedures for the 22 categories selected for phase one will reduce the size of a typical depreciation study by 50%. We recognize that a 50% reduction in the size of the study will not necessarily

[1] Simplification of the Depreciation Prescription Process, *Report and Order*, 58 FR 58788 (1993) (*Depreciation Simplification Order*).

[2] Flexibility allows a LEC to select, within established ranges, the life and salvage factors it uses in prescribed depreciation rates without undergoing the expense of submitting studies to justify its specification of those factors. In addition, under the new procedures, the LECs can change their basic factors annually, as opposed to the current triennial represcription cycle.

[3] Simplification of the Depreciation Prescription Process, *Order Inviting Comments*, 58 FR 62083 (1993) (*OIC*).

result in a reduction of the workload by 50%. Nevertheless, in our view, the elimination of so much of the detailed analyses currently required in the studies will produce a substantial administrative savings for both the LECs and our staff. Moreover, we plan to propose ranges for additional accounts later this year, and to adopt ranges for these accounts early in 1995. As a result, we expect that the simplification procedures will be in place for all accounts, to the extent feasible, for the 1995 depreciation prescription review process. The ranges we establish in this *Second Report and Order* will be used to establish depreciation rates for 1994. Considering that ranges for additional accounts will take effect in 1995, we believe that our two-phase plan will allow us to achieve a major improvement in the depreciation prescription process in a very short period of time.

8. In the *OIC*, we proposed to establish ranges at the account level for sixteen plant accounts and at a rate category level for four additional accounts. The majority of parties commenting on this matter supported our proposal. Pacific Bell further suggested that, where a carrier maintains levels of categorization more detailed than those proposed by the Commission, it should be allowed to use the streamlined procedures, if the "composite" factors of its individual rate categories are within the ranges established for the category as a whole. In addition, NYNEX made a special request that the Commission establish a separate rate category with appropriate ranges for interoffice cable plant, because it contends the life characteristics of this plant are significantly different from those of subscriber cables.

9. Based on these comments, we have decided to adopt the ranges for the 22 rate categories as proposed in the *OIC* (see Appendix below). As NARUC observed, establishing ranges at these levels should not require any additional record keeping or substantial effort on the part of the LECs, since they are presently required to maintain their accounting records at these levels under Part 32.[4]

10. We have decided not to develop special ranges for LECs that have chosen to study rate categories at levels not listed in the Appendix. The application of our range approach is based on national averages of prescribed depreciation factors. Consequently, to develop special ranges would slow the process significantly as it would be necessary to require many carriers to submit large amounts of data which we would then have to analyze in order to establish appropriate ranges. This would place an undue burden on the majority of the carriers that do not study the plant investment at the levels of detail desired by those LECs that seek ranges for additional categories.

11. Nevertheless, we will consider requests from LECs like Pacific, that study an account listed in the Appendix at a more detailed level than shown, but wish to qualify within the established range for that account. During the prescription process, we will consider their proposals on a case-by-case basis to use the basic factors computed at the more detailed levels to satisfy the range requirements.

12. In the *OIC*, we solicited comments on a specific set of proposed ranges for the future net salvage and projection life factors for 22 plant categories. USTA and the LECs argued that the proposed ranges are too narrow, because the LECs will be able to use the streamlined procedures for fewer than 50% of the 22 plant categories. They argued that the ranges should be expanded in order to streamline the process significantly. In addition, for a few of the plant categories, they argued that the proposed life ranges are too high. They suggested that, because of the rapid changes in technology, certain plant accounts should be written off more quickly. However, GSA, MCI, NARUC and most of the state commission commenters support the ranges proposed in the *OIC*. California CATV and GSA believe that the objections to the proposed ranges raised by the LECs are aimed at obtaining higher depreciation rates, rather than streamlining the depreciation process.

13. In the *Depreciation Simplification Order*, we set forth the specific data that should be considered in establishing the projection life and future net salvage ranges, and we used these data in proposing ranges in the *OIC*. We based the ranges on statistical studies of the most recently prescribed factors. These statistical studies required detailed carrier-by-carrier analyses of the most recent plant retirement patterns, the carriers' plans, and the current technological developments and trends. Because the proposed ranges reflect these data, we believe that the ranges provide a reasonable degree of confidence that the basic factors falling within their bounds will produce depreciation rates accurately reflecting plant retirements, company plans, and technological trends. Moreover, they allow the LECs sufficient flexibility in the selection of the final factors.

14. Furthermore, we do not believe that the ranges are too high, or too low, as some of the commenters contend. Our objective was not to change the depreciation rates, but to streamline the process used by the Commission to prescribe those rates. Consequently, we will not at this time modify any of the proposed ranges. We believe that some experience with the ranges should be developed before we consider modifying them. If changing conditions require revisions in the ranges, we can modify them at that time.

15. The LECs' assertion that they will be able to use the streamlined procedures for fewer than 50% of the 22 rate categories is incorrect.[5] We have studied the potential application of the ranges to every carrier for which the Commission prescribes depreciation rates. We have found that today over two-thirds of the carriers would qualify for the streamlined procedures for the 22 proposed rate categories. Furthermore, our most recent depreciation rate reviews indicate that the proportion should increase over the next few years.

16. In the past, we allowed two informal, alternative streamlined procedures for plant accounts representing less than 3% of a carrier's total depreciable investment in a jurisdiction. We are replacing these informal streamlined study procedures with the adoption of our range option. To have several streamlined procedures in place at the same time could prove confusing and could negate any streamlining achieved by the Commission. Moreover, these previous procedures had a minimal streamlining effect as compared with the new streamlined procedures. To illustrate, they only reduce the studies by 3 or 4 pages per category, whereas our new procedures reduce them by 15 pages. Therefore, we have decided to employ only the streamline range option adopted in our *Depreciation Simplification Order*.

17. Under our depreciation prescription process, one-third of the carriers for which we prescribe depreciation rates have their rates reviewed each year. In the *Depreciation Simplification Order*, we stated that price cap LECs scheduled for review in 1995 and 1996 could file for changes in their depreciation rates for 1994 as long

[4] 47 C.F.R. 32.12(b). The LECs for which we prescribe depreciation rates are Class A companies and must keep all the Class A accounts prescribed in Part 32.

[5] In the *Depreciation Simplification Order*, the Commission decided that "if a LEC's current basic factors for any one account do not both fall within the established ranges for that account, the LEC may not use the range approach for that account."

as they used basic factors within the ranges we selected. These carriers must file these depreciation rate changes in a timely manner in accordance with the requirements set forth in the *Depreciation Simplification Order.*

18. Accordingly, *it is ordered,* pursuant to Section 4(i), 201–205 and 220(b), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 201–205 and 220(b), that the ranges for the future net salvage and the projection life factors for the accounts listed in the Appendix are *hereby adopted* as specified in the Appendix.

19. *It is further ordered,* that this order is effective thirty days after publication in the **Federal Register.**

20. *It is further ordered,* that carriers may use the ranges established herein for federal filing purposes prior to the effective date of this order.

List of Subjects in 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

APPENDIX—ACCOUNTS AND RANGES FOR PHASE ONE IMPLEMENTATION

Account No.	Account name	Depreciation rate category	Projection life range (years)		Future net salvage range (percent)	
			Low	High	Low	High
2112	Motor Vehicles	Motor Vehicles	7.5	9.5	10	20
2113	Aircraft	Aircraft	7	10	30	60
2114	Special Purpose Vehicles	Special Purpose Vehicles	12	18	0	10
2115	Garage Work Equipment	Garage Work Equipment	12	18	0	10
2116	Other Work Equipment	Other Work Equipment	12	18	0	10
2122	Furniture	Furniture	15	20	0	10
2123.1	Office Support Equip	Office Support Equip	10	15	0	10
2123.2	Co. Communications Equip	Co. Communications Equip	7	10	−5	10
2124	Gen. Purpose Computers	Gen. Purpose Computers	6	8	0	5
2231	Radio Systems	Radio Systems	9	15	−5	5
2232	Circuit Equipment	Digital Data Service	7	11	−5	10
2232	Circuit Equipment	Analog	8	11	−5	0
2311	Station Apparatus	Station Apparatus	5	8	−5	5
2341	Large PBX	Large PBX	5	8	−5	5
2351	Public Telephone	Public Telephone	7	10	0	10
2362	Other Terminal Equipment	Other Terminal Equipment	5	8	−5	5
2421	Aerial Cable	Non-Metallic	25	30	−25	−10
2422	Underground Cable	Non-Metallic	25	30	−20	−5
2422	Underground Cable	Metallic	25	30	−30	−5
2423	Buried Cable	Non-Metallic	25	30	−10	0
2424	Submarine Cable	Submarine Cable	25	30	−5	0
2441	Conduit Systems	Conduit Systems	50	60	−10	0

[FR Doc. 94–16948 Filed 7–11–94; 10:29 am]

BILLING CODE 6712–01–M

47 CFR Part 74

[MM Docket No. 93–106, FCC 94–147]

Use of the Frequencies in the Instructional Television Fixed Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC amended the Instructional Television Fixed Service (ITFS) rules to permit licensees to utilitize channel loading in meeting their basic educational programming requirements. Channel loading is the scheduling, or "loading," of the requisite amount of ITFS programming onto fewer than the authorized channels in a four-channel ITFS group. It represents a cost-free means of freeing up ITFS channels for full-time commercial programming by wireless cable operators who lease excess capacity from ITFS licensees.

EFFECTIVE DATE: August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Anne Lucey, Mass Media Bureau, Video Services Division, Distribution Services Branch, (202) 418–1630.

SUPPLEMENTARY INFORMATION: This is the Commission's *Report and Order* in MM Docket No. 93–106, adopted on June 9, 1994 and released on July 6, 1994.

The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, at the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Report and Order

1. Forming the nucleus of the channel-loading rules are the five elements of an industry-wide agreement reached late last summer by educators and wireless cable operators, *see* 58 FR 42522 (August 10, 1993), with some minor modifications designed to provide additional assurances that the primary educational purpose of ITFS will be preserved.

2. First, licensees wishing to lease excess capacity must provide for the continued minimum total of 160 hours per week of ITFS programming, or 40 hours per channel per week, composed of 80 hours to be immediately used and the remaining 80 hours to be subject to ready recapture by the ITFS licensee, in the event it wishes to expand its educational programming.

3. Second, as agreed to in the compromise, licensees must transmit the minimum total of 80 hours per week over only their authorized ITFS channels. Licensees may "load" this amount of programming onto fewer than their four channels. However, the rules will not permit licensees utilizing channel loading to transmit the reduced amount of 12 hours per channel per week, an allowance now made for licensees during their first two years of operation. The Commission views

channel loading as an alternative to the two-year, 12-hour minimum programming option.

4. Third, a licensee may agree to the transmission of its 80 hours of ready recapture programming over any channel in a market-wide wireless system, whether it be an ITFS or MMDS channel. The licensee will have the right to recapture time on up to four channels to air simultaneously 20 additional hours of educational programming per channel. This time may be recaptured upon six months' written notification to the wireless cable operator, rather than the one-year notice now required. The Commission deemed this shortened notice period an appropriate trade-off for wireless cable operators, who now will have the flexibility to transmit the recaptured ITFS programming on any channel in their systems rather than being limited to leased ITFS channels, as before.

5. Fourth, an ITFS applicant seeking four channels, proposing 80 hours of programming per week and providing in its lease agreement for an additional 80 hours of ready recapture is presumed to have demonstrated its need for those channels. Applicants must continue to submit programming grids and schedules, but these must now reflect, as nearly as possible, the nature and timing of educational programming planned for the first year of operation. This will permit the Commission to verify that programming aired outside the traditional school day is in fact directed to legitimate educational needs. Compliance with the above will be reviewed at renewal time. Moreover, those applicants proposing to channel load in accordance with the rules adopted by the Commission will not be disadvantaged for electing to do so in the comparative selection procedure utilized by the Commission in selecting a licensee between mutually exclusive applicants.

6. Fifth, the Commission noted that no reallocation of ITFS spectrum, of either loaded or non-loaded channels, is intended or effected by the adoption of channel loading. Rather, the Commission stated that channel loading provides ITFS licensees with an option, which will enhance the value of leasing arrangements both to ITFS licensees and wireless cable lessees.

7. Finally the Commission will allow the channel loading rules to remain in effect until the Commission assesses the impact of digital compression on the ITFS service, through a future notice and comment rule making proceeding.

8. The Commission applied the rules and standards adopted for channel loading to channel mapping. Channel mapping, a complex and costly switching technology that is functionally equivalent to channel loading, was recognized by the Commission in 1991 as a legitimate means of accommodating the joint programming needs of ITFS licensees and their wireless cable lessees.

9. For further information concerning this *Report and Order,* contact Anne Lucey (202–418–1630), Mass Media Bureau, Video Services Division, Distribution Services Branch, Federal Communications Commission, Washington, DC 20554.

List of Subjects in 47 CFR Part 74

Radio broadcasting.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

Rules Changes

Part 74 of title 47 of the Code of Federal Regulations is amended as follows:

PART 74—[AMENDED]

1. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1062, as amended; 47 U.S.C. 154, 303, 554.

2. Section 74.902 is amended by redesignating paragraph (d) as paragraph (d)(1) and adding paragraph (d)(2) to read as follows:

§ 74.902 Frequency assignments.

* * * * *

(d) * * *

(2) An applicant leasing excess capacity and proposing a schedule which complies in all respects with the requirements of Section 74.931(e) will have presumptively demonstrated need, in accordance with paragraph (d)(1) of this section, for no more than four channels, all part of the same Group listed in paragraph (a) of this section. This presumption is rebuttable by demonstrating that the application does not propose to comport with our educational programming requirements, that is, to transmit some formal educational programming, as defined in Section 74.931(a), and to transmit the requisite minimum programming of Section 74.931(e) for genuinely educational purposes and to receive sites when students are there.

3. Section 74.931 is amended by revising paragraph (a)(1) and adding paragraph (e)(9) to read as follows:

§ 74.931 Purpose and permissible service.

(a)(1) Instructional television fixed stations are intended primarily to provide a formal educational and cultural development in aural and visual form, to students enrolled in accredited public and private schools, colleges and universities. Authorized instructional television fixed station channels must be used to transmit formal educational programming offered for credit to enrolled students of accredited schools, with limited exceptions as set forth in paragraph (e)(9) of this section and Secs. 74.990 through 74.992.

* * * * *

(e) * * *

(9) A licensee may shift its requisite ITFS programming onto fewer than its authorized number of channels, via channel mapping technology or channel loading, so that it can lease full-time channel capacity to a wireless cable operator, subject to the condition that it provide a total average of at least 20 hours per channel per week of ITFS programming on its authorized channels. The licensee also retains the unabridgeable right to recapture, subject to six months' written notification to the wireless cable operator, an average of an additional 20 hours per channel per week for simultaneous programming on the number of channels for which it is authorized. The licensee may agree to the transmission of this recapture time on channels not authorized to it, but which are included in the wireless system of which it is a part.

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[FR Doc. 94–16879 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 90]

RIN 2127–AE79

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Seat Belt Assemblies

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

ACTION: Final rule, technical amendment, date for early optional compliance.

SUMMARY: On April 15, 1994, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, and Federal Motor Vehicle Safety Standard No. 209, Seat Belt Assemblies. It gave manufacturers of replacement seat belt

assemblies intended for use only in specifically identified motor vehicles a choice of two means of providing information about the seating positions and vehicle models for which the assemblies are appropriate. The information may be provided either on the assembly itself or in the installation instruction sheet required to accompany the assembly. The final rule also provided that the labeling requirement does not apply to two types of seat belt assemblies when they are installed as original equipment in a new motor vehicle. The final rule is effective October 12, 1994.

General Motors (GM) petitioned for reconsideration, requesting that manufacturers be allowed to delete information that will no longer be required now instead of waiting until October 12, 1994. This notice provides the requested relief.

DATES: The amendments to Section 571.208 (49 CFR 571.208) and Section 571.209 (49 CFR 571.209), published at 59 FR 17992, April 15, 1994, continue to be effective October 12, 1994.

Seat belt assemblies and vehicles manufactured before October 12, 1994, may voluntarily comply on July 8, 1994, with those rules instead of the requirements currently in effect.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel S. Cohen, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–4911.

SUPPLEMENTARY INFORMATION: On April 15, 1994, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, and Federal Motor Vehicle Safety Standard No. 209, Seat Belt Assemblies, to allow manufacturers of all replacement seat belt assemblies intended for use only in specifically identified motor vehicles a choice of two means of providing information regarding the seating positions and vehicle models for which the assemblies are appropriate (59 FR 17992). The information may be provided either on the assembly itself or in the installation instruction sheet currently required to accompany the assembly. The final rule also narrowed the applicability of the labeling requirement so that it does not apply to two types of seat belt assemblies when they are installed as original equipment in a new motor vehicle. NHTSA amended Standards Nos. 208 and 209 because the new requirement will provide manufacturers more flexibility in the manner of providing installation information without decreasing the likelihood that belts will be correctly installed. The final rule is effective October 12, 1994.

On May 2, 1994, General Motors (GM) petitioned for reconsideration of the April 15 final rule. Specifically, GM requested an amendment to the effective date to allow manufacturers to begin now to delete information that will no longer be required. In the absence of this relief, the manufacturers will have to continue providing the information until the October 12, 1994 effective date.

Prior to October 12, 1994, Standard No. 209 will continue to specify three different sets of requirements for the provision by manufacturers of replacement seat belt assemblies of information regarding the vehicle models and seating positions for which the assemblies are appropriate. The standard requires some seat belt assemblies to be labeled, some to be both labeled and accompanied by an installation instruction sheet, and some simply to be accompanied by an installation instruction sheet. A complete discussion of which requirement applies to which type of belt can be found in the April 15 final rule. The April 15 final rule replaced these three different sets of requirements with the single provision described above.

Since the April 15 final rule was intended to ease the burden on manufacturers, by providing manufacturers with more flexibility and deleting redundant requirements, the agency is adopting the requested amendment.

NHTSA finds for good cause that this final rule can be made effective immediately. This final rule imposes no duties or responsibilities on any party. Manufacturers may continue to comply with the current requirements until the previously established effective date of the April 15, 1994 final rule. As an alternative, this final rule gives manufacturers the option of complying instead with the requirements of Standard No. 208 and Standard No. 209, as amended by the April 15, 1994 final rule, which will become effective October 12, 1994.

Accordingly, under the authority of 49 U.S.C. 322, 30111, 30115, 30117, and 30166, and the delegation of authority at 49 CFR 1.50, the amendments to Section 571.208 (49 CFR 571.208) and Section 571.209 (49 CFR 571.209), published at 59 FR 17992, April 15, 1994, continue to be effective October 12, 1994. Seat belt assemblies and vehicles manufactured before October 12, 1994, may voluntarily comply on July 8, 1994, with those rules, in lieu of the requirements currently in effect.

Rulemaking Analyses and Notices

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

This action was not reviewed under the Executive Order. NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures and determined that this action is not significant within the meaning of those policies and procedures. This final rule gives manufacturers the option of complying either with the current requirements of Standard No. 209, or the requirements of Standard No. 209 as amended by the April 15, 1994 final rule, which will be effective October 12, 1994. Accordingly, this final rule will not impose any costs on manufacturers. The impacts are thus so minimal that a full regulatory evaluation was not prepared.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, the agency has determined that this final rule will not have any cost impacts. Accordingly, a regulatory evaluation has not been prepared for this final rule.

Paperwork Reduction Act

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

National Environmental Policy Act

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

Executive Order 12612 (Federalism)

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

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect

of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Issued on July 8, 1994.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 94–17000 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100–4043; I.D. 070694A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for the sharpchin/northern rockfish species category in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the sharpchin/northern rockfish total allowable catch (TAC) in the AI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 7, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Michael Sloan, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the sharpchin/northern TAC for the AI was established by the final groundfish specifications (59 FR 7656, February 16, 1994) as 4,820 metric tons (mt). The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the sharpchin/northern rockfish TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 4,320 mt, with consideration that 500 mt will be taken as incidental catch in directed fishing for other species in the AI.

The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for the sharpchin/northern rockfish species category in the AI, effective from 12 noon, A.l.t., July 7, 1994, until 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from OMB review under E.O. 12866.

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

Dated: July 7, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–16863 Filed 7–7–94; 4:03 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 133
Wednesday, July 13, 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

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94–016P]

RIN 0583–AB79

Enhanced Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service is proposing to amend the poultry products inspection regulations to implement a new system of post-mortem inspection for all poultry species. The proposed system contains several innovations to provide assurances that USDA-inspected and passed poultry products will be free of visible contamination and will require the use of approved antimicrobial treatments in all official establishments. The proposed system would replace all existing systems of poultry post-mortem inspection with a single system in which two FSIS inspectors would staff each poultry processing line and examine carcasses for disease and visible contamination. The proposed regulation would not mandate a reduction in maximum linespeeds. The proposed system would place additional responsibility on official establishments to assure that the poultry they process is wholesome and free of disease. Establishment personnel, positioned before the on-line post-mortem FSIS inspector, would check carcasses prior to inspection and present for inspection only those poultry that are free of disease. Additionally, they would identify all poultry requiring off-line trim, salvage or reprocessing prior to presentation to FSIS for inspection. A second FSIS inspector would be positioned at a new inspection station that would incorporate that portion of the processing line between viscera harvest and the chiller. This is a location where contamination can occur but where there is currently no on-line inspection taking place. Finished Product Standards would be revised to eliminate process tolerances for fecal contamination. Recordkeeping and verification procedures would be required so that establishment process control could be assured. Additionally, all contaminated poultry that are reprocessed would be reinspected on the main processing line by the second FSIS inspector and antimicrobial treatments would required to be applied to carcasses before the chilling operation.

DATES: Comments must be received on or before October 11, 1994.

ADDRESSES: Written comments to Policy Evaluation and Planning Staff, Attn: Diane Moore, Room 3171 South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments, as provided under the Poultry Products Inspection Act, should be directed to Dr. Isabel Arrington, at the address given below. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Dr. Isabel Arrington, Staff Officer, Inspection Management Program, Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 720–7905.

SUPPLEMENTARY INFORMATION:

Comments

The Agency recognizes that there may be additional information that was not available for its consideration at the time this proposal was written. Therefore, the Agency is conducting further analysis of the benefits and costs of the proposal and also is soliciting additional information on this proposal. In particular, FSIS is interested in receiving information on inspector sequence, benefits, and costs of the proposed rule. FSIS expects that this information will be submitted in the form of comments from the public.

Interested persons are invited to submit comments concerning this proposal. Written comments should be sent to the Policy Evaluation and Planning Staff and should refer to the docket number that appears in the heading of this document. Any person desiring opportunity for oral presentation of views, as provided under the Poultry Products Inspection Act, must make such request to Dr. Arrington so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 4:00 p.m., Monday through Friday.

Additionally, FSIS will collect data by pilot testing this proposal during the comment period. The Agency will comply with all bargaining obligations under the National Basic Agreement and the Federal Service Labor Management Relations Statute relating to the impact any Poultry Enhancement Inspection System pilot test would have on employee working conditions.

To the extent that the further analysis conducted by USDA and the comments solicited by this proposal contain meritorious alternatives, information, or data not previously considered, the Agency may decide to propose changes to specific provisions of this proposed rule. In this event, the Agency is committed to supplement this rulemaking to provide the public an opportunity to comment on the specific revised regulatory provisions.

Background

Introduction

The Secretary of Agriculture is charged by the Poultry Products Inspection Act (PPIA—21 U.S.C. 451 *et seq.*) with carrying out a mandatory poultry products inspection program. The purpose of this inspection is to assure that poultry products in interstate and foreign commerce are wholesome, not adulterated, and properly marked, labeled, and packaged. The Act prohibits the shipment in commerce of poultry products that are adulterated or misbranded (21 U.S.C. 458), including any poultry products that bear or contain any poisonous or deleterious substance that may render them injurious to health (21 U.S.C. 453(g)(1)) or that for any other reason are unsound, unhealthful, unwholesome, or otherwise unfit for human food (21 U.S.C. 453(g)(3)). The Act requires post-mortem inspection of all carcasses of slaughtered poultry subject to the Act and such reinspection as deemed necessary (21 U.S.C. 455(b)). The Secretary is authorized to promulgate such rules and regulations

as are necessary to carry out the provisions of the Act (21 U.S.C. 463(b)).

FSIS has stationed about 2,705 inspectors in 300 poultry slaughtering establishments nationwide. They are responsible for ante-mortem and post-mortem inspection, and the inspection of further processed products at these establishments. They are also responsible for assuring that facilities and equipment are sanitary and the plant environment conducive to the manufacture of a wholesome product.

To meet the PPIA requirement for post-mortem inspection of every poultry carcass, FSIS stations inspectors on every slaughter line throughout every working shift. Most poultry slaughtering establishments operate moving production lines that carry the poultry through all the stages of processing from that of the live bird to the finished, ready-to-cook stage.

Slaughter and Dressing Process

Currently, live birds are brought to the plant and hung upside-down on shackles on the moving conveyor line. They are moved first to the stunning and slaughtering area, where they are bled out. Next, they are moved into scalding vats where the feathers are loosened. They are then conveyed to automatic defeathering machines (called "pickers"), where the feathers are taken off the carcass by rapidly moving rubber "fingers." After this operation, the birds pass through a hock removal area. Then they pass to the evisceration area of the plant, where the birds are eviscerated by automatic machinery. Evisceration is usually accomplished by cutting the bird's abdomen and "scooping" out the organs with metal "spoons" or paddles.

The viscera are left attached to and suspended outside the carcass throughout post-mortem inspection. The birds are presented for inspection with the hanging viscera suspended to one side of the carcass. The inspector conducts a post-mortem examination for signs of disease or abnormality by holding open the abdominal cavity with one hand and viewing its interior and then quickly manipulating the viscera with the other hand. At the same time, the inspector observes the external surfaces of the carcass for signs of disease, abnormality, or contamination. The inspector also points out to establishment employees lesions or other conditions that may be removed by trimming.

Birds that do not pass post-mortem inspection are either removed from the processing line and placed on a hang-back rack for veterinary disposition or they are designated for off-line trimming, salvage, or reprocessing, or condemned. Birds that are inspected and passed by FSIS move on to the next operations, which include viscera removal, giblet harvest, and final trimming and washing. The carcasses then proceed to the chilling operation, where usually they are immersed in ice and cold water tanks to bring the carcass temperature down to acceptable levels and to retard bacterial growth. The chilled birds are then packaged and readied for shipment or further processed.

Basis of Inspection

All post-mortem inspection is based on the use of an organoleptic method of inspection. That is, inspectors and veterinarians rely on the use of their five senses in making decisions regarding the disposition of poultry carcasses and their parts. Additionally, FSIS personnel monitor chemical residues and microbial baselines by taking random samples of inspected birds for laboratory microbiological or chemical analyses. Laboratory analysis can be utilized to confirm post-mortem dispositions or suspected chemical residues.

The organoleptic method has proven reliable over many years in the detection of diseases or abnormalities that could be dangerous and are certainly objectionable to consumers. Nevertheless, the organoleptic method is not capable of detecting microbial pathogens that may be present on raw, ready-to-cook product. Because of the continuing and increasing threat of foodborne pathogens, including pathogens known to be carried on the surfaces of dressed poultry carcasses and in feces, the focus of meat and poultry inspection must shift towards enhancing public health.

Pathogen Reduction Initiatives

In this regard other FSIS initiatives include prevention programs for use on the farm and during live-animal transit, the development of rapid detection methods using the latest technologies, the collection of microbiological baseline data, the development of risk analysis methods applicable to meat and poultry inspection, microbial detection and reduction activities in both slaughtering and processing plants, and an intensified education program directed at retail outlets, food handlers, and consumers.

Some of these initiatives will obviously take longer than others to carry out. Some in-plant activities will depend on the development of new technology. Even though all critical research questions have not yet been answered, FSIS recognizes and accepts its obligation to proceed with activities that are likely to succeed based on current theories about pathogen control. The agency also has the opportunity to introduce useful microbial detection technologies into the present inspection program as they become available, not waiting for the fully developed new system.

This proposal includes several activities which are based on present knowledge, especially that which suggests that pathogen presence on carcasses is likely associated with fecal contamination and that careful process control can reduce the potential for contamination.

Current Inspection Systems

Several poultry post-mortem inspection systems are currently operated in federally inspected establishments—traditional, New Line Speed (NELS), New Turkey Inspection System (NTIS), and the Streamlined Inspection System (SIS). Within each of these current systems no product with visible fecal contamination is permitted to enter the chiller, but the assurance of this standard is based on monitoring samples; inspectors do not have the opportunity to continuously verify that fecal contamination doesn't enter the chiller.

Traditional

Under traditional inspection, the oldest system, one inspector examines a whole bird and is responsible for its proper disposition, including directing and verifying any required trimming by an establishment employee who is the "inspector's helper," before the bird leaves the area of inspection. A sample of inspected product is reinspected for processing nonconformances through an acceptable quality level (AQL) statistical program. Line speeds for traditional inspection were based on work-measurement studies and were set at the limit at which an inspector could carry out the organoleptic examination and manipulation of each carcass presented for inspection. Also, industry was not capable of producing birds at a higher speed and therefore, these line speeds were acceptable.

SIS

In the mid-1970's, the development of automated evisceration equipment, as well as improvements in genetics, nutrition, health, and flock management, allowed the poultry industry to present uniform lots of birds to inspectors faster than inspectors could inspect using traditional methods. In 1978, the FSIS approved the use of a new inspection method known as

Modified Traditional Inspection (MTI). MTI allowed industry to run an eviscerating line at speeds of up to 70 birds per minute.

In 1985, USDA designed a new system to replace MTI that would permit the industry to continue to operate at 70 birds per minute but require fewer on-line inspectors. This system became known as the Streamlined Inspection System (SIS). SIS, which is currently the standard form of inspection for young chickens, requires one or two inspectors to be positioned on each processing line after the birds have been eviscerated. Each inspector performs a whole-bird inspection involving the examination of the outside, inside, and viscera of the birds presented for inspection. The one-inspector form of SIS is known as SIS–1; the two-inspector version, called SIS–2, is the most widely used (about 140 plants, compared with only about 3 plants for SIS–1).

Inspection under both SIS–1 and SIS–2 is conducted in two phases—a post-mortem inspection phase and a reinspection phase. In the inspection phase, inspectors determine which birds must be salvaged, reprocessed, condemned, retained for veterinary disposition, or allowed to be moved down the line as a passed bird subject to reinspection.

The reinspection station or stations are located both before and after each chiller. At the prechill station, inspectors examine carcasses by visually monitoring, checking quality control data, or sampling product at the station. SIS incorporates a finished product standards (FPS) program by which product is evaluated and the results tracked with the aid of the CUSUM statistical method. The tabulation and charting of CUSUM results enables the establishment and FSIS inspectors to determine whether the establishment's processes are under control, and hence, whether the process will produce consistently sound, wholesome product.

NELS

During the 1970's and 1980's the industry continued to make significant technological advances and were capable of better process control. The FSIS inspection procedure became the limiting factor on industry productivity. In 1981, the Agency developed a new procedure, New Line Speed (NELS), that shifted quality control responsibilities to the plant and relied more heavily on monitoring and verification than in the past. This is a voluntary program, and, if approved the establishment can operate at a maximum rate of 91 birds per minute.

NELS combines SIS post-mortem inspection procedures with an establishment-operated slaughter quality control program that is monitored by FSIS. The Agency permits the NELS system in appropriately equipped establishments that have requested and been approved for the system. The NELS inspection system consists of three FSIS inspectors performing the NELS whole-bird post-mortem inspection procedure and at least one inspector monitoring the application of an FSIS-approved, plant-operated slaughter quality control (QC) program. The QC program is designed to assure that the processing system is under control.

NTIS

The above discussion regarding MTI, SIS, and NELS is specific to the development of inspection systems for young chickens, the largest segment of the poultry industry. Other classes of poultry have not evolved through the same inspection procedures. However, as the turkey industry began to grow and become more automated, merely expanding traditional procedures was impractical and inefficient. Therefore, in 1985, FSIS established the New Turkey Inspection (NTI) system which was based on the concepts and procedures used in NELS system.

This system calls for one or two inspectors on each inspection line to inspect the inside, outside, and viscera of each bird presented, with establishment employees responsible for trimming passed carcasses. The adequacy of the trimming is assured through an establishment-operated quality control and finished product standards (FPS) program that is monitored by FSIS personnel.

Poultry Enhancement Program

Introduction

Experience has shown that there are two points on the poultry main processing line where birds are more likely to become contaminated. The first of these is at evisceration, when improperly adjusted equipment may perforate or burst the intestines as the viscera is "scooped" out, resulting in fecal contamination on the interior surface of the carcass. The second point where contamination may occur is where the viscera are separated from the carcass. Unless the viscera harvest is properly carried out, the interior surface of carcasses can become contaminated with feces. In March, the Secretary of Agriculture announced a series of measures that are intended to strengthen poultry products inspection and reduce the occurrence of pathogens on raw product. The initiatives included a better method for enforcing "zero tolerance" for fecal contamination on raw product by changing the inspection sequence to provide on-line inspection checks for contamination, which is not provided by current systems. Also included among the initiatives are the use of approved antimicrobial treatments on carcasses and the 100% reinspection of reprocessed carcasses. Because these initiatives would change procedures that are already authorized or required by the regulations, it is necessary to amend the regulations to carry them out.

The proposal would implement a new system of post mortem inspection, require re-inspection of all reprocessed birds on the main processing line, revised the existing finished product standards program, and require the use of an antimicrobial treatment before the chilling operation. The proposed new inspection system is intended to assure that only uncontaminated poultry would enter the chiller and the required antimicrobial treatment is applied to every carcass. A benefit of these is to reduce the chance of cross-contamination in the chilling operation.

Inspection Sequence Changes

The proposal would replace all existing systems of poultry post-mortem inspection with a single system in which two FSIS inspectors would staff each poultry processing line. The first inspector would examine eviscerated poultry at an "on-line post-mortem inspection station," located at or near the present post-mortem inspection position. This inspector would assure that carcasses sorted by the establishment are free of condemnable pathology or are properly designated for off-line trim, salvage, or reprocessing.

The second inspection station, the "on-line/off-line carcass inspection station," would be positioned just before the chiller. The inspector at this station would perform on-line inspection for fecal contamination thus ensuring that no visible fecal contamination is present on carcasses entering the chiller. This inspector would also be responsible for observing plant operations between the viscera harvest and the final wash and for reinspecting all reprocessed birds on the line.

The Agency requests that comments on the proposal include information and data on this proposed inspector sequence, or information and data

relative to any alternatives to this proposed inspector sequence.

Establishment Responsibilities

Establishment personnel, known as sorters, would be positioned before the first FSIS inspector. This position will be a reassignment of duties for the current plant presenters and inspector helpers. The establishment sorters differ in responsibility from the inspectors' helpers under the current regulations because the sorters would be more active in detecting disease and abnormality and sorting birds affected by such conditions from normal birds.

The required establishment sorter or sorters would be responsible for assuring that no diseased poultry requiring condemnation are presented for FSIS inspection. They would designate poultry for off-line salvage, trimming, or reprocessing, or condemn the birds prior to presentation for inspection, and they would be required to record all condemnations on a disposition reporting form required for the purpose. Only those birds without condemnable conditions would be permitted to reach the post-mortem inspection station, except for those designated and marked for reprocessing, knife-salvage, or other off-line procedures. These would be removed from the evisceration line only after the bird passed the FSIS post-mortem inspector at the on-line post-mortem inspection station but before the viscera harvest.

Under the proposal, as is currently required, the establishment would have to position an employee after the post-mortem inspector and before the viscera harvest. This employee would be required to perform duties such as removing carcasses marked for salvage or reprocessing, or placing birds on hangback racks for veterinary disposition or correlation.

The establishment also would continue to be required to position one or more trimmers after the giblet harvest and before the final wash. These trimmers would continue to perform the duties required by the current regulations, but they would have the additional responsibility of removing for reprocessing birds that are contaminated with feces on the inner surfaces and assuring that only birds that are properly trimmed are presented to the FSIS inspector at the on-line/off-line carcass inspection station.

Reprocessing

Currently, reinspection of reprocessed birds by FSIS is done by random sampling of lots. The proposed system would require all reprocessed birds to be returned to the main processing line at a point before the second FSIS inspector to assure that they are reinspected. If any reprocessed bird were found with fecal contamination, all birds remaining in the reprocessed lot would be returned to the establishment's reprocessing station for rework.

Equipment and Facilities Requirements

All poultry slaughtering establishments would be required to comply with the same equipment and facility requirements, which would be essentially those of the present SIS, NELS, and NTIS inspection systems, extended to accommodate inspection at the proposed on-line/off-line inspection station. For example, establishments would have to furnish adjustable inspection stands and shadow-free lighting with a minimum intensity of 200 foot candles and a color rendering index of 85 at the inspection stations. Also, guidebars would have to be installed at both inspection stations in all establishments to permit birds to be moved smoothly and consistently to the edge of the trough running below the conveyor so that birds would be properly presented to the FSIS inspector.

Linespeed

Maximum linespeeds allowed under optimal conditions would remain the same under the proposed system. The proposed system does not prescribe specific hand motions which in the past have been a determining factor in the rate at which an inspector could inspect each bird. This system would allow the inspector flexibility in the technique used to inspect each bird. Also, this proposal would eliminate the presentation for FSIS inspection of those birds with condemnable conditions.

FSIS also considered the impact linespeeds have on the safety and wholesomeness of poultry. A study was conducted between June 1990 and May 1991 at a poultry establishment to determine if the microbiological quality of poultry carcasses was different when processed at varying linespeeds. The general conclusion was that mean bacterial counts and *Salmonella* prevalence did not change significantly with varying processing linespeeds.[1]

Also, there are data to support the incidence of *Salmonella* on whole broiler carcasses declined from 36.9% to 25.0% between 1979 and 1992 irrespective of changes in linespeeds.[2]

Other factors do impact the microbiological quality of the product such as chlorine and other antimicrobial treatments as well as process control and the adherence to good manufacturing practices by the establishment.[3]

Based on this information, maximum inspection rates for young chickens would remain at 70 birds per minute for establishments without approved slaughter PQC programs and at 91 birds per minute for establishments with approved slaughter PQC programs. The rates for turkeys with J-type opening cuts and weighing under 16 lbs. would be 20 birds per minute at establishments without such PQC programs and 51 birds per minute at establishments operating such PQC programs. The rates for such turkeys weighing more than 16 lbs. would be 16 birds per minute without such PQC and 41 birds per minute with such PQC. The rates for turkeys with bar-type opening cuts weighing under 16 lbs. would be 20 birds per minute at establishments without PQC programs and 45 birds per minute at establishments operating PQC programs. The corresponding rates for such turkeys weighing over 16 lbs. would be 16 birds per minute without a PQC program and 35 birds per minute with a PQC program. (See Table 1.)

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[1] Study conducted by USDA, FSIS, Science and Technology. The study is available for review at the Hearing Clerk's Office.

[2] Study conducted by USDA, FSIS, Science and Technology. A copy of this study is available in the office of the FSIS Hearing Clerk.

[3] "Effects of countercurrent scalding and postscald spray on the bacteriologic profile of raw chicken carcasses." 1992. W. James et al. Journal of the American Veterinary Medical Association. Vol. 201, No. 5, pages 705–708. A copy of this document is available from the FSIS Hearing Clerk, Washington, DC.

TABLE 1.—MAXIMUM PRODUCTION RATES

Class of poultry	Birds per minute	
	With PQC	Without PQC
Young chickens	91	70
Young turkeys:		
	J-type opening cut	3-point suspension
Less than 16 pounds	51	20
More than 16 pounds	41	16
	Bar-type opening cut	3-point suspension
Less than 16 pounds	45	20
More than 16 pounds	35	16

Under the proposal, the FSIS inspector in charge (IIC) or his/her designee would retain the responsibility for determining whether conditions permit adequate post-mortem inspection at the maximum rates. Criteria for justifying linespeed reductions would include the inability of the official establishment to present carcasses so that internal and external surfaces and organs can be inspected, remove condemnable birds from the line, and properly identify contaminated birds for trimming or knife salvage.

Finished Product Standards Revisions

The FPS now provided in the regulations would be updated and tightened to reflect more accurately the current conditions in the poultry industry.

The current FPS program was developed on the basis of 1983 in-house data. Since the standards were adopted, the program has proven more effective in preventing nonconformances than the AQL it supplanted. However, experience in applying the FPS has disclosed certain limitations involving the application of testing rules and actions. The proposed revised FPS would overcome these limitations while preserving the advantages of the current FPS. The strength of both the current program and the proposed revised FPS is the effectiveness of on-line quality control in maintaining processing control. Processing control, which focuses on prevention rather than the detection of nonconformances, would continue to be the guiding concept of the FPS.

The proposed FPS program would incorporate the following changes to the current FPS processing control monitoring program:

(1) Consolidation of nonconformance categories.

(2) Elimination of feces from reinspection categories.

(3) Elimination of post-chill testing.

(4) Setting nonconformances tolerances at same level for all poultry classes.

(5) Separation of the trimmable lesion/condition category from processing/trim categories.

(6) Simplification of on-line processing control monitoring rules.

Consolidation of Nonconformance Categories

The proposed revised FPS nonconformance categories (Table 1 at proposed 9 CFR 381.76(h)) would be fewer than the existing FPS nonconformance categories and the testing procedure would be simpler. The proposed category changes would make testing easier and provide earlier feedback. Appropriate preventive and corrective actions could be initiated because the carcass nonconformance would be based on ready-to-cook (RTC) requirements and sanitary dressing procedures.

The current finished product standards (FPS) program has 20 prechill processing, 14 prechill trim, and 3 post-chill categories (37 categories). These groupings are based on the type of nonconformances found on carcasses. The proposed FPS program would have 8 nonconformance categories and 1 separate trimmable lesion/condition category. The nonconformances would be assigned to common groups with respect to control, origin, prevention, or removal. Prechill processing and trim categories would be combined on one test form to simplify the testing process so that only one cumulative summation (CUSUM) would be calculated.

The relative risk of nonconformances would be the same for each poultry class. Because the comparative risk between categories is not known, the new nonconformance categories would be weighted equally (each having a weight factor of one). This change would also eliminate any tendency to correct only those nonconformances with higher weights.

Elimination of Feces From the Nonconformance Categories

One goal of the FPS program would be to ensure that poultry carcasses are free of feces. To emphasize the Agency's determination to enforce the "zero tolerance" for such contamination, feces would no longer be listed among nonconformance categories. Any finding of fecal contamination during an FPS check would require an immediate line speed reduction. On-line processing control by the establishment is necessary to exclude fecal contamination from product ready to enter the chilling system.

There are two operations in the slaughtering process where there is a greater chance for carcass contamination. These operations are evisceration and viscera harvest. Under this proposal, FSIS inspectors would be stationed after each of these operations to ensure only non-contaminated carcasses proceed down the line.

Elimination of Post-Chill Testing

One goal of the proposed FPS reinspection test would be to ensure that the establishment keeps its evisceration process under control with emphasis on preventing fecal contamination from entering the carcass chilling system. All carcasses would be subject to sampling using the proposed FPS test, which includes a modified extraneous material category, prior to entering the chill system; therefore, these defects should not enter the chill system. The current FPS post-chill test focuses on the detection of extraneous material nonconformances too late in the slaughtering and dressing procedure to provide information that could be used to improve evisceration controls.

Setting Tolerances at the Same Level for All Poultry Classes

It is reasonable to set one tolerance to provide a uniform standard for evaluating all poultry carcasses after slaughter and dressing since ready-to-cook (RTC) requirements and the same

nonconformances apply to all poultry classes. Established tolerances for poultry carcasses are already approaching uniformity. The current FPS pre-chill trim nonconformance limits for young chickens and turkeys are already the same. The FPS pre-chill processing and post-chill nonconformance limits for young chickens and young turkeys are almost the same.

Ideally, if optimal processing controls were maintained, poultry would be nonconformance-free. Nonconformance-free product may be theoretically achievable but is not likely to be commercially feasible. A reasonable tolerance would allow for the presence of a few accidental nonconformances incidental to the process and, at the same time, define acceptable quality levels. Establishing a new tolerance for all poultry classes along with changes in the testing rules would encourage continual improvement in processing control. Periodic re-evaluation of these limits would be essential to encouraging the trend toward the production of poultry that is free of nonconformances.

The current FPS tolerances and action numbers are based on data collected in 1983. The Agency is now offering for comment the modifications of these standards that field inspection experience has shown to be necessary. Even so, the Agency will be especially attentive to comments addressing the proposed FPS standards.

Currently, the FPS upper limit of acceptability of a 10-bird test sample is called the subgroup absolute limit. The subgroup absolute limit is defined by the tolerance number plus 5 (T+5). The "plus 5" is the expected normal variance in a process under control. In the proposed FPS program, the need for the subgroup absolute limit (T+5) is eliminated by incorporating normal process variability within tolerance. Following the cumulative summation (CUSUM) method, the process variability exceeding tolerance is recorded. The proposed FPS program uses CUSUM to determine when the process is out of control and to identify product requiring rework. Tolerance levels for nonconformances would ensure appropriate corrective actions at the control points. In recent years, a zero CUSUM has been achieved consistently by establishments under the current FPS program—evidence that nonconformance process control has improved. A zero CUSUM over time is not expected. Because of process variation, a certain number of tests are expected to exceed tolerance and cause an increase in the CUSUM. The FPS tolerance numbers for nonconformances were set at such a level that one test in 20 would be expected to exceed the tolerance number plus 5. Under the present FPS program, exceeding the subgroup absolute limit (T+5) is usually the only cause for corrective action or testing. Maintaining a zero CUSUM does not encourage further improvement in process control.

Separation of the Trimmable Lesion/Condition Category From the Processing/Trim Categories

One goal of the proposed revised FPS program would be to ensure process control with a statistically valid method of identifying trimmable lesions and conditions and product requiring rework. The confidence level of the proposed *on-line* test ensures a standard of no tolerance for trimmable lesions and conditions. The test would be objective and would result in actions that are firm, fair, and consistent. The standard for trimmable lesion/condition nonconformances is met through testing and actions independent of the other proposed FPS nonconformance categories.

Separating the trimmable lesion/condition category from the other proposed FPS nonconformance categories allows independent actions which include: (a) Monitoring a statistically valid number of carcasses on-line; (b) notifying the IIC immediately of trimmable lesion/condition nonconformance; (c) accurately identifying product with trimmable lesion/condition nonconformance for rework; (d) recording and evaluating corrective actions taken.

The current finished product standards (FPS) program assigns a point value to the trimmable lesion/condition nonconformances found during a 10-bird monitoring test. These points are included in the CUSUM calculation for the pre-chill trim test. At the same time, trimmable lesion/condition nonconformances have a "zero tolerance." That is, an immediate retest involving an additional 10-bird sample is required when a trimmable lesion/condition is detected. The 10-bird retest is not a statistically valid number of carcasses. The probability that trimmable lesions and conditions will be found through such 10-bird tests is low, even when the process is out of control. Thus, the testing does not result in identifying product for rework.

The proposed on-line verification test is statistically based to ensure processing control and takes a reasonably short time to perform. The test would be conducted by the establishment on a 300-bird sample taken after the final wash at the reinspection sample collection site. An FSIS floor inspector would typically perform verification sampling for the Agency. A line-stop button would be required to facilitate the removal of carcasses with trimmable lesions and conditions during the on-line test.

Simplifcation of Rules for Monitoring On-Line Processing Control

An additional goal of the proposed revised FPS program would be to modify testing rules and procedures to ensure that testing is sensitive and specific enough to identify loss of processing control. A high probability of identifying product requiring rework would be associated with actions taken on the basis of the tests.

As mentioned, testing rules in the current FPS program are cumbersome and result in repeated testing which rarely results in identifying product for rework. When pre-chill nonconformances reach action levels, immediate multiple location testing and retesting is required at pre-chill, post-chill, and on-line control points. This increase in simultaneous testing is labor-intensive for both the establishment and inspection. This labor-intensive effort rarely results in the identification of product for rework. There is little incentive to do testing that almost never leads to regulatory action. The program requirements generate a lot of paper work, while the intended effect on processing control is difficult to quantify.

The proposed revised FPS program would identify when the establishment's processing is out of control and product requires rework. All monitoring tests would be applied at pre-chill. Under the current FPS program, product is tested at post-chill using pre-chill standards to identify product requiring rework. At post-chill, product from multiple evisceration lines is sometimes commingled in one chiller. This commingling dilutes nonconformances and decreases the probability of identifying product for rework when tested post-chill. With the proposed FPS, all affected carcasses would be subject to reinspection, identified at pre-chill, and segregated for rework.

The proposed revised FPS is easily applied even when carcasses go directly to further processing. The proposed categories (Table 1 at proposed 9 CFR 381.76(h)) are designed to provide feedback to the establishment to ensure processing control.

Corrective Actions

If the on-line postmortem inspector observed a bird that should have been condemned or designated and marked for off-line knife-salvage, trimming, or reprocessing, the inspector would stop the processing line to make a proper disposition. The inspector would have the bird condemned, removed from the line, or, if the condition of the bird was found to be questionable, placed on a hang-back rack for veterinary disposition.

If the on-line/off-line carcass inspector observes any fecally contaminated birds, the line would be stopped and the bird removed for reprocessing. Additionally, a mandatory linespeed reduction would be required. The linespeed would be reduced to the extent necessary to ensure process control in preventing/eliminating all feces and for such duration until it is determined by FSIS that the process can be maintained in compliance with the no visible fecal contamination standard.

If any reprocessed bird is found with fecal contamination, the on-line/off-line inspector will require all birds remaining in the reprocessed lot to be returned to the establishment's reprocessing station for rework.

Any finding of fecal contamination during a Finished Product Standard check would require an immediate linespeed reduction and reprocessing of the contaminated carcass.

Antimicrobial Treatments

In spite of the best efforts to reduce or eliminate visible contamination through the measures that this proposal would require, poultry would still harbor bacteria. The numbers of these invisible contaminants can only be reduced through antimicrobial treatments. With this proposed rulemaking, the Agency would require, for the first time, that poultry slaughtering establishments provide antimicrobial interventions before the carcasses enter the chilling system.

Thus, in addition to changing post-mortem inspection staffing and procedures and reinspection criteria, this proposed rulemaking would mandate the use of an approved antimicrobial treatment for poultry. The treatments could be applied at any point preceding the chilling operation. Many establishments would already be in compliance with this provision of the proposed regulations because they routinely apply a 20-ppm chlorinated spray at the final wash. Spoilage and pathogenic bacteria naturally reside on the surface of raw poultry. It has been assumed that a certain level of bacteria present on carcass surfaces was unavoidable due to the inherent characteristics of animals and raw poultry meat and the nature of the slaughter and processing operation. Consequently, organoleptic inspection procedures were designed to detect obvious carcass diseases or abnormalities. FSIS is expanding its inspection activities to address increasing concern by the scientific community and the public about the threat of foodborne illness from consumption of meat and poultry products. Pathogens of concern in poultry include *Salmonella* and *Campylobacter*, which are frequently carried on raw poultry. These bacteria cannot be detected by sight, smell, or taste.

Salmonellae, found in the intestinal tract and waste of most warm-blooded animals, are the most important cause of bacterial foodborne illness with a 0.1 percent case fatality rate and highest average cost per case.[4] Foods of animal origin, particularly meat and poultry, are considered to be the primary source of human salmonellosis. The organisms are present in the skin and feathers of live birds whose carcasses can also become contaminated during slaughter from intestinal tract contents of otherwise healthy animals. Cross contamination of cooked foods from raw meat and poultry, kitchen utensils, or surfaces has been frequently described as a cause of salmonellosis.

Campylobacter jejuni lives naturally as a harmless inhabitant in the intestinal tract of many warm-blooded animals, including poultry. In many countries the incidence of *Campylobacter* infection is higher than that for *Salmonella*. In North America, campylobacteriosis is believed to be the principal cause of foodborne enteritis, accounting for the highest number of cases.[5] Poultry meat is most often implicated as the primary source of infection.

From 1983 to 1987, 2,397 foodborne disease outbreaks were reported to the Centers for Disease Control (CDC), representing 91,678 cases. CDC defined an outbreak as an incident in which two or more persons experience a similar illness and food is implicated. The etiology was unknown in the majority of outbreaks. Among outbreaks in which etiology was determined, bacterial pathogens caused the largest number of outbreaks (66 percent) and cases (92 percent). During the five-year interval, meat and poultry accounted for approximately 16 percent of the bacterial disease outbreaks. *Salmonella* was the most frequently reported pathogen each year.[6]

FSIS recognizes that the technologies now available for reducing bacterial contamination on raw poultry carcasses are limited. There are currently no approved antimicrobial agents for use pre-chill listed in the poultry inspection regulations, although several compounds appear promising. Described below are a few alternative treatment methods available to the poultry industry for use or further development.

Trisodium phosphate is approved by FDA for use as a processing aid on raw poultry. It is listed in the FDA regulations as generally recognized as safe (GRAS) for multiple purpose use in accordance with good manufacturing practice (21 CFR 182.1778). FSIS has granted approval for testing of trisodium phosphate at pre-chill and post-chill locations and has begun rulemaking procedures to include this compound and its use conditions in the table of substances in 9 CFR 381.147(f)(4). Trisodium phosphate has been shown to reduce microbial contamination on poultry carcasses when applied by spraying or dipping carcasses for up to 30 seconds in an 8- to 12-percent solution. Industry studies show a one to one and one-half logarithm reduction in the number of *Salmonella* and other bacteria on carcass surfaces when carcasses are dipped in or sprayed with trisodium phosphate.[7]

Several organic acid compounds, including lactic acid and acetic acid, have antimicrobial effects and are listed in the FDA regulations as GRAS. Although listed in 21 CFR, conditions-of-use have not been established for use of these compounds on poultry products. Researchers have obtained varying degrees of microbial reductions when treating carcasses with organic acid compounds. Early studies indicated changes in carcass skin color when carcasses were treated with organic acid compounds. More recent studies provide data supporting the effectiveness of organic acid compounds at concentrations that do not

[4] Agricultural Outlook, Economic Research Service, USDA, AO–197 (June 1993), pp. 32–36. A copy is available for review in the FSIS Hearing Clerk's office.

[5] Agricultural Outlook, Economic Research Service, USDA, AO–197 (June 1993), pp. 32–36. A copy is available for review in the FSIS Hearing Clerk's office.

[6] MMWR (Morbidity and Mortality Weekly Report), Vol. 39/No. SS–1: "CDC Surveillance Summaries, March 1990." This document is available for review at the FSIS Hearing Clerk's office.

[7] Study conducted by the Rhone-Poulenc Company. The study is available for review at the Hearing Clerk's Office.

compromise the sensory properties of the meat.[8]

The washing of carcasses with chlorinated water to reduce the numbers of spoilage and pathogenic bacteria on carcasses is a longtime practice in the poultry industry. As early as 1951, researchers noted the effectiveness of in-plant chlorination in lowering bacteria counts on product, increasing shelf life, reducing odors in the establishment, and reducing slime on equipment.[9] Chlorine is used now in most poultry establishments, primarily in chill water, to prevent bacterial cross-contamination and as an effective sanitizing agent on facilities and equipment usually at levels of 20 to 50 parts per million available chlorine.[10] A 1992 FSIS study showed significant microbial reductions on raw chicken carcasses and giblets immersed in chlorinated chill water.[11]

Manufacturers of chlorine dioxide have petitioned FDA to permit the use of this compound to disinfect waters contacting fresh meat, fresh poultry, processed meat, and processed poultry.[12] Studies have shown that chlorine dioxide used at lower concentrations is as effective as chlorine in reducing bacterial levels on poultry."[13]

Mechanical process modifications have also been studied. Good effects in reducing bacterial levels on carcasses have been obtained when conventional scald and chilling systems have been replaced with countercurrent scald and chilling systems. In countercurrent systems, carcasses exit from the system where the water is the cleanest.[14] In 1991, the industry conducted a major study that showed that a combination countercurrent scald system, post-scald rinse, and chlorination at several control points on the evisceration line effectively reduced the number of spoilage and pathogenic organisms on carcass surfaces.[15]

Washing the carcass more often during the slaughter and dressing operation has been shown to reduce the levels of bacteria on carcass surfaces. Researchers theorize that spray washing at critical points during the process creates a water film between the bacteria and the carcass surface which prevents bacteria from attaching to carcass surfaces. Simply washing carcasses with hot water has also been shown to be effective in reducing the levels of bacteria on carcass surfaces.[16]

FSIS is studying the use of the Hazard Analysis Critical Control Point (HACCP) concept in official establishments as an effective means of improving the process and reducing bacterial loads on carcasses. Using HACCP in poultry inspection was proposed by the National Academy of Science in a 1985 study, "Meat and Poultry Inspection: The Scientific Basis of the Nation's Program."[17] The first step in developing an effective HACCP plan is to define the hazards. Microbiological hazards are defined as "the unacceptable survival by microorganisms of concern to safety or spoilage and/or the unacceptable production or persistence in foods of products of microbial metabolism." After hazards are identified, critical control points are established. The critical control point describes the location or points in the process which, if not correctly controlled, could lead to contamination with unacceptable growth.[18]

The use of an antimicrobial treatment on raw poultry carcasses would not eliminate the need for continued careful handling of raw poultry products, but would reduce the levels of bacteria that may be present. Establishments have several options to use as effective treatments in reducing bacterial contamination on carcass surfaces. Some treatments will require further development as indicated. Finding practical ways to reduce bacterial contamination on raw poultry products will continue to be a top priority in the agency.

Anticipated Improvements

Inspectors and veterinarians would be free to concentrate their attention on disease problems, on more intensive inspection of various on-line and off-line plant operations and on microbial controls. The Agency could more effectively utilize its inspection resources to maintain bird-by-bird inspection at this time, particularly for pathology and disease conditions, while enhancing and increasing its use of a comprehensive program of sampling and quality assurance. This proposal would also allow the Agency to begin to lay the groundwork necessary for further training of personnel to perform monitoring and prevention activities needed to implement the Hazard Analysis and Critical Control Points System in the future. The poultry enhancement initiatives included in this proposal are intended to improve the current inspection system and not be a substitute for inspection. A comparison of the current and proposed systems is summarized in Table 2.

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[8] "Natural Lactic acid: a natural solution." J. Bacus. 1987. The National Provisioner. June 13, 1987. Pages 19–21. This document is available for review in the FSIS Hearing Clerk's office.

[9] "In-Plant Chlorination Does a 3-Way Job." H. Gorseline. 1951. U.S. Egg and Poultry Magazine. April. Pages 12, 13, 29–31. This document is available for review in the Hearing Clerk's office.

[10] "List of Proprietary Substances and Nonfood Compounds," USDA, FSIS, Miscellaneous Publication No. 1419, January 1, 1994. Page II–vi. This document is available for review in the FSIS Hearing Clerk's office.

[11] "Effects of chlorination of chill water on the bacteriologic profile of raw chicken carcasses and giblets." 1992. W. James et al. Journal of the American Veterinary Medical Association. Vol. 200, No. 1, pages 60–63.

[12] "Rio Linda Chemical Co., Inc.; Filing of Food Additive Petition." Notice was published in the Federal Register, Vol. 59, No. 22, by FDA on February 2, 1994. A copy is available for review in the FSIS Hearing Clerk's office.

[13] "Effect on Broiler Carcasses and Water of Treating Chiller Water with Chlorine or Chlorine Dioxide." H.S. Lillard. 1980. Poultry Science, Vol. 59, pagess 1761–1766. A copy is available for review in the FSIS Hearing Clerk's office.

[14] "Effects of countercurrent scalding and postscald spray on the bacteriologic profile of raw chicken carcasses." 1992. W. James et al. Journal of the American Veterinary Medical Association. Vol. 201, No. 5, pages 705–708. A copy of this document is available from the FSIS Hearing Clerk, Washington, DC.

[15] "Effects of Six Modifications on the Incidence and Levels of Spoilage and Pathogenic Organisms on Commercially Processed Postchill Broilers." 1992. Amy L. Waldroup et al. Journal of Applied Poultry Science. Res. 1:226–234. A copy of this document is available for review at the FSIS Hearing Clerk's office.

[16] "Salmonella Savvy." R. Mulder. 1987. Poultry Processing. December 1987. Pages 72–74. This document is available for review in the FSIS Hearing Clerk's office.

[17] This document is available for review at the Hearing Clerk's Office, Washington, DC.

[18] "The Use of HACCP in the Production of Meat and Poultry Products." R. Tompkin. 1990. Journal of Food Protection, Vol. 53, No. 9, pages 795–803. A copy is available for review in the FSIS Hearing Clerk's office.

TABLE 2.—COMPARISON OF CURRENT AND PROPOSED INSPECTION SYSTEMS

	Number of carcass/viscera postmortem inspectors	Number of prechill carcass inspectors	Pre-chill clean carcass enforcement	Plant pre-sorting of product	Maximum line speed	Reprocessed product	Process corrective action for finding of feces	Mandatory antimicrobial locations	FPS fecal tolerance
TRAD.	Varies	0	Monitoring Off-Line	No	Varies	Monitoring	Varies	Reprocessing Equipment	Yes.
SIS–1	1	0	Monitoring Off-Line	No	35	Monitoring	Retest	Reprocessing Equipment	Yes.
SIS–2	2	0	Monitoring Off-Line	No	70	Monitoring	Retest	Reprocessing Equipment	Yes.
NELS	3	0	Monitoring Off-Line	No	91	Monitoring	Retest	Reprocessing Equipment	Yes.
NTIS–1	1	0	Monitoring Off-Line	No	Range 17–26	Monitoring	Retest	Reprocessing Equipment	Yes.
NTIS–2	2	0	Monitoring Off-Line	No	Range 35–51	Monitoring	Retest	Reprocessing Equipment	Yes.
PEP	1	1	Monitoring Off-Line and On-Line Inspection	Yes	See Table #1	100% Re-inspection.	Automatic Line Speed Reduction.	Reprocessing Equipment Carcasses	No.

There are currently a total of 8382 in-plant inspector positions, including poultry and meat inspectors. These proposed enhancements would not have any impact on the total number of inspector positions. There are 424 total in-plant inspector vacancies. FSIS has requested funds for 200 additional inspectors for FY95 to help fill some of these vacancies. The implementation of these poultry enhancement changes would not have an impact on the number of vacancies.

The total number of inspectors available for off-line duties as a result of the proposed poultry enhancement program would be 139. (See Tables 3a. and 3b.)

TABLE 3a.—INSPECTION POSITION CHANGES RESULTING FROM CONVERTING TO ENHANCED POULTRY INSPECTION

Inspection system	Total plants	Total lines	Current on-line inspectors	On-line inspectors under PEP
SIS	139	367	1,275	1,266
NELS	45	118	630	414
NTIS	27	46	88	124
Traditional	79	96	168	218
Total	290	627	2,161	2,022

TABLE 3b.—TOTAL IN-PLANT INSPECTION POSITIONS UNDER CURRENT SYSTEM AND PEP

Number of USDA inspection positions in poultry slaughter establishments	Current system	PEP
Veterinarians	456	456
On-line Inspectors	2,161	2,022
Off-line Inspectors	502	641
Total	3,119	3,119

Currently, the average net increase in in-plant inspector positions is 55–57 per year. The majority of increased positions have resulted from industry growth. It is projected that the growth of the poultry industry will continue and possibly increase. Additionally, FSIS expects an increased need for inspectors for HACCP monitoring and additional microbiological duties. The 139 inspection personnel resulting from the implementation of the enhanced poultry inspection system could fill the new positions resulting from industry growth, as well as the new positions created for HACCP monitoring and additional microbiological duties. Other positions considered could include permanent relief inspector positions or additional off-line inspector positions.

Although not available for the present rulemaking, new microbiological tests and sampling programs are under development. The proposed system requires inspection at a point where FSIS expects some microbiological testing to occur. Research is aimed at determining typical microbial conditions at various in-plant and in-process locations. On the basis of such information, it is hoped, criteria can be developed for determining when plant processes are in control and in compliance with a standard, based on microbiological test results. In the future, with the aid of rapid in-plant tests, inspectors and veterinarians should be able to determine more precisely the source and nature of microbial threats to public health.

Executive Order 12866

FSIS has determined that this proposed rule is significant, but does not believe it to be economically significant, for the purposes of Executive Order 12866, because it raises significant policy issues arising out of legal mandates and the Administration's priorities, which include a regulatory

system that improves, protects, and maintains public health and safety without imposing unacceptable costs on the private sector.

The proposed rulemaking would meet the objectives of the Secretary of Agriculture to enhance poultry inspection by enforcing a more stringent policy for the removal of feces from dressed poultry carcasses and by requiring the application of antimicrobial treatments. It is thereby intended to improve public health and safety and strengthen consumer confidence in poultry products.

While the proposed rulemaking would impose initial costs and additional responsibilities on the regulated industry, the Agency's assessment indicates that the proposed rulemaking is cost-effective as compared to the alternatives considered. There would be no reduction in maximum poultry production linespeeds currently allowed under optimal conditions, but the proposed regulation would provide inducements to industry to improve processing controls and further ensure the quality and safety of outgoing product.

At the same time, the proposed rulemaking would apply the President's regulatory philosophy by addressing a compelling public need ". . . to protect or improve the health and safety of the public . . . or the well-being of the people." (E.O. 12866, section 1(a).) This need is evidenced by epidemiological and economic studies carried out in recent years that show the presence of microbial pathogens on raw poultry products to be a continuing and possibly an increasing threat to the public health and the economy of the nation.[19]

Preliminary assessment by FSIS indicates that this proposal is consistent with other planned regulatory actions and with Administration policy goals. For example, this proposed rulemaking would be both compatible with and a precursor of the planned mandatory Hazard Analysis and Critical Control Points (HACCP) programs for meat and poultry establishments. The inspection and plant sorting stations to be provided for control of disease and contamination would be consistent with certain control points that would be chosen for monitoring under a HACCP system. The proposal is also intended to contribute to the fulfillment of the Administration's public health objectives as set forth in the Healthy People 2000 initiative.

Benefits of Proposed Rule

The benefits to be derived from the proposed rule include potential reductions in the microbial profile of dressed, ready-to-cook poultry, including both pathogens and other bacterial organisms. A reduction in visible contamination, combined with antimicrobial treatments, can result in a decrease in the microbial load on dressed poultry carcasses.[20]

Foodborne illness exacts a significant annual toll on the American people and economy. An estimated 6.5 million to 33 million people in the United States become ill and 6,000 to 9,000 die each year from foodborne illness. Meat, poultry, dairy, and seafood products are the foods most likely to contain contaminants. Microbial foodborne disease causes an estimated $2.5 billion to $3.4 billion in medical costs and reduced productivity to be spent each year for four major bacterial pathogens and $2.6 billion each year for parasitic diseases.[21]

Of the four bacterial pathogens, *Salmonella, Campylobacter jejuni, Listeria monocytogenes,* and *Escherichia coli* 0157:H7, the first three are found on poultry. In as many as 17.2 percent of salmonellosis cases, poultry products have been implicated as the vehicle (immediate source of infection). Annual medical costs attributable to salmonellosis range from $1.2 billion to $1.6 billion. The costs associated with campylobacteriosis cases are in the neighborhood of $1 billion per year. More than 40 percent of campylobacteriosis cases can be attributed to the consumption of improperly handled chicken. Productivity losses from such cases are estimated at over $400 million for 1992.[22] The growing proportion of the U.S. population that is compromised by immunologic deficiencies and age exacerbates the problem because these subpopulations are more susceptible to infection and death resulting from infection.

The costs associated with foodborne illness attributable to improperly handled poultry are thus substantial in both human and monetary terms, and the Department has undertaken a comprehensive program of research, regulation, and consumer education to try to improve the situation. The reduction of foodborne pathogens on meat, meat food, and poultry products remains the Agency's highest research priority. Eight of the Agency's "top ten" research topics concern aspects of this problem. FSIS is developing a number of regulations, including this proposed rule, to deal comprehensively with the problems associated with pathogens on raw meat and poultry. For example, the Agency recently promulgated a regulation requiring safe handling labeling on all meat and poultry products that are raw or have not been subjected to a process that would make them ready-to-eat. A vigorous consumer education campaign is underway to publicize the safe handling labels and to remind consumers of the importance of food safety practices.

The proposed rule would strengthen the Department's pathogen reduction effort by providing enhanced assurance that ready-to-cook poultry are free of disease and visible contamination that may harbor pathogens. This would be accomplished, first, by requiring official establishments to meet their responsibility to present for post-mortem inspection only birds that have been presorted for condemnable conditions. Second, FPS process tolerances for fecal contamination would be eliminated. The effort to reduce such contamination is likely to yield corresponding reductions in harmful bacteria on dressed poultry carcasses.

Third, the on-line/off-line carcass inspector, provided by the proposal, would be able to increase FSIS oversight over establishment dressing procedures, such as viscera harvest, and on-line trimming. Inspectors would now have the opportunity to inspect every carcass after the viscera harvest operation. Because, under the current inspection systems, there is no on-line inspection position after viscera removal, Federal inspectors are not able to view every carcass at the end of the production line before the carcasses enter the chiller. This proposal would correct that situation.

Fourth, all reprocessed poultry would be reinspected. Added assurance would thus be provided that reprocessed poultry are free of visible contamination and unlikely to be a cause of cross contamination when introduced into the chill system.

Fifth, a pre-chill antimicrobial treatment step would be required. This

[19] Agricultural Outlook, Economic Research Service, AO–198 (July 1993), pp. 33–38.

Healthy People 2000. Department of Health and Human Services. 1994. Food and Drug Safety: Health Status Objective 12.1.

Copies of these documents are available for review in the office of the FSIS Hearing Clerk.

[20] "Comparison of the Microbiological Quality of Inspection-Passed and Fecal Contamination-Condemned Broiler Carcasses." L.C. Blankenship, et al. 1975. Journal of Food Science, Vol. 40, pages 1236–1238. A copy of this article is available for review in the office of the FSIS Hearing Clerk.

[21] USDA, Economic Research Service, Agriculture Information Bulletin No. 664–53, September 1993. A copy of this publication is available in the office of the FSIS Hearing Clerk.

[22] Agriculture Outlook, Economic Research Service, USDA, AO–198 (July 1993), pp. 33–36.

would help assure lower microbial populations on raw carcasses.

The additional assurance of poultry wholesomeness provided by the proposed regulation would increase consumer confidence in the U.S. poultry supply, with further increases in the domestic and export markets for U.S. poultry a likely result.

Another benefit of the proposed regulation would be improved safety and health conditions for FSIS inspectors. The new inspection procedures to be implemented by this proposal would result in the elimination of most repetitive inspector hand motions, and this would lead in turn to a dramatic reduction in repetitive motion disorder among FSIS poultry inspectors—including days off from work for medical consultation and treatment. Annual claims reported by FSIS inspectors (both poultry and red meat) to the Office of Workers Compensation Programs of the Department of Labor have amounted to over $500,000 per year for repetitive motion disorder. In addition to such well-publicized conditions as carpal tunnel syndrome and tendinitis, inspector have reported cases of epicondylitis, ganglionic cyst, and other conditions imposing compensation costs of $4,000 to $5,000 per case.

Finally, the proposed regulation would establish a single, uniform inspection system for all classes of poultry that are subject to the PPIA. Poultry processors would have added assurance that—no matter what kind of poultry they market—the standards and procedures by which the poultry are inspected are the same, and that all birds are expected to meet uniform requirements. All establishments would be able to maintain, and some establishments would be able to increase, their production rates.

The Agency would gain short-term flexibility in assigning inspectors from some line positions to existing vacancies in the inspection program, and long-run flexibility to train personnel in a uniform methodology and to assign or reassign them more readily to locations where they are most needed. Implementation of enhanced poultry inspection would benefit the Agency by helping to offset the need for more inspectors to meet industry growth, fulfill HACCP monitoring requirements, and carry out microbiological sampling programs. Finally, consumers would gain the assurance that the same dressing and contamination standards had been applied to all types of federally inspected poultry.

The Agency requests that comments on these and other benefits be submitted to help evaluate the advantages that could be expected from implementation of a final rule.

Costs of Proposed Rule

The major impacts of the proposal on the poultry industry would be the one-time costs associated with installing new facilities and equipment and the on-going costs associated with information collections and the 100-percent reinspection of reprocessed birds. Preliminary estimates of these costs are summarized in Table 4. The Agency requests that comments on the proposal include information on the costs to the extent it is available. These comments would help evaluating the costs in the final rule. As indicated in the section of this preamble concerning the Paperwork Reduction Act, a detailed analysis of the information collection requirements of the proposal is being submitted to the Office of Management and Budget.

TABLE 4.—COSTS TO ESTABLISHMENTS UNDER CURRENT INSPECTION SYSTEMS OF CONVERTING TO ENHANCED POULTRY INSPECTION, BY SYSTEM AND COST CATEGORY

Current system	Inspection stands and guidebars, installation	Lighting	Training, hiring of additional establishment employees	Reprocessing inspection cost to industry *	Reconfiguration	Antimicrobial treatment	Information collection	Total
Traditional	$792,160	$96,000	$179,000	$196,000	$40,000	$24,000	$395,000	$1,722,160
SIS–1	23,880	3,000	15,000	6,700	3,000	1,000	15,000	67,580
SIS–2	716,440	0	223,000	1,056,720	182,000	41,000	680,000	2,898,160
NELS	231,280	0	75,000	809,340	60,000	14,000	225,000	1,414,620
NTIS–1	95,520	12,000	20,000	30,240	6,000	3,000	35,000	201,760
NTIS–2	270,640	0	32,500	73,920	17,000	6,000	100,000	500,060
Column totals	2,129,920	110,000	544,500	2,172,920	308,000	89,000	1,450,000	6,804,340

* Indicates per-annum cost; other costs computed on one-time-only basis.

The figures listed in Table 4 take into account the number of federally inspected poultry slaughter establishments currently in operation and the number of slaughtering lines for each inspection system. The estimates provided for inspection stand purchase and installation are based on consultation with several equipment manufacturers. Most of the approximately 186 establishments currently operating under SIS–2 and NELS may be able to use or move existing inspection stands at a cost of no more than $1,000 each. For example, an establishment currently operating under the NELS inspection system may be able to provide a reconfigured inspection line by moving an inspection stand from the post-mortem inspection area to the pre-chiller carcass inspection station. Some plants, however, would have to purchase or construct and install at least one new inspection stand at a cost of $6,000 to $10,000 per installation. A guidebar would have to be installed at each on-line post-mortem inspection station to permit eviscerated birds to be presented to the inspector for examination.

The estimates for installation of 200 foot-candle lighting take into account the fact that establishments operating under several of the current inspection systems (SIS, NELS, and NTIS) are already provided with enhanced lighting. Establishments operating under traditional inspection (as many as 96 lines) would have to install new lighting at a cost of about $1,000 per purchase and installation. The enhanced lighting is necessary to ensure the effectiveness of post-mortem inspection and the FPS checks under the new system.

As noted, most projected costs are one-time only. A few establishments may have to hire new personnel to staff some poultry slaughter lines. Additional

expenses for retraining establishment personnel are likely to be incurred by all establishments. In addition, most establishments affected by this proposal would incur miscellaneous line reconfiguration expenses involving space reallocation at an estimated $1,000 per establishment.

To meet the requirement for antimicrobial treatment before the chiller, approximately 30 percent of poultry plants would have to install equipment. Most poultry establishments would not be affected immediately by the requirement because their final washers are already using an antimicrobial agent. Those establishments that are not using their final washes to add an antimicrobial agent could do so for approximately $500 per processing line simply connecting their existing chlorine supply to their final carcass wash equipment.

The industry would incur additional annual costs in connection with the 100-percent on-line reinspection of reprocessed birds. These costs have been computed on the basis of the average linespeeds for the different inspection systems and the assumption of a 2-percent overall rate of reprocessing. It has also been assumed that most reinspection of reprocessed carcasses would result in overtime hours and that a labor cost would be incurred for rehanging birds on the processing line. Overtime salaries for Federal inspectors (paid by affected establishments) and wages for establishment personnel have been factored into the estimates. The 2-percent reprocessing rate is based on approximately two years of in-plant data collection and represents the national average. Through a combination of process control, good husbandry practices, and good manufacturing practices individual establishments can lower this rate thereby decreasing this on-going cost.

Also, an allowance for minor plant reconfigurations has been made. It is expected that some establishments would have to move equipment and rearrange their slaughtering lines to a limited extent to make room for inspection locations.

Below are estimated costs to the poultry industry of converting to enhanced poultry inspection:

Inspection and plant sorter stands and guidebars for at most 643 lines: $2,129,920
Enhanced lighting for as many as 100 lines: $110,000
Expenses for training and hiring new establishment personnel: $544,500
Cost of inspection of reprocessed carcasses: $2.2 million
Miscellaneous processing line reconfiguration costs: $308,000
Cost of minimal equipment installations to meet final wash antimicrobial treatment requirement: $89,000
Estimated annual cost of information collections: $1.4 million
Total estimated direct impact on federally inspected establishments: $6.8 million
Estimated direct impact on (approx. 160) State-inspected establishments operating under "at least equal to" programs: $3.4 million
Estimated direct impact on poultry industry: $10.2 million

The Agency does not expect economic losses to occur as a result of slowing linespeeds due to proposed corrective action. As indicated earlier in the preamble to this rule, maximum linespeeds allowed under optimal conditions would remain the same. If establishment sorters fulfill their responsibility, as outlined in this proposal, then maximum linespeeds should be attainable. Establishments currently operating under traditional inspection may be able to achieve increases in linespeeds under this proposal but such action could only occur if quality and safety of the outgoing product was ensured. As indicated by this analysis, the industry could operate with maximum effectiveness with a small investment in personnel and training. As currently allowed, the FTIS inspector in charge or his/her designee would retain the discretion to reduce linespeeds when necessary.

Alternatives Considered

FSIS considered two alternatives to this proposal that would meet the Secretary's objectives. The first of the alternatives would involve detaching the viscera from poultry carcasses prior to inspection and presenting the organs and the carcass for inspection at the same time, but separated. A separate belt or tray would be provided for the viscera to prevent the viscera from contaminating the carcass. However, the cost to industry would be approximately $140 million for new equipment. In addition, downtime for construction and installation could cost the industry as much as $780 million.

Under the second alternative, the current post-mortem inspection procedures would be retained utilizing existing inspection techniques, but with an inspector at the end of the line after the viscera have been removed from the carcasses to examine each carcass for fecal contamination. This could be accomplished either by moving an existing inspector to the end of the line, or by adding a new inspector to every line, or by a combination of both arrangements. However, this would mean that the Government could incur additional personnel costs of approximately $16 million per annum. Further, production rates could be reduced by 30 to 50 percent if the inspectors tasks remained identical, but fewer inspectors were used to perform those functions. The impact of the slowed linespeeds could reach $5.2 billion per year for chickens and turkeys.

In the judgment of the Agency, either of these alternatives would impose unacceptable costs.

Executive Order 12778

This proposed rule has been reviewed pursuant to Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the PPIA from imposing any requirements with respect to federally inspected premises and facilities, and operations of such establishments, that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions are also preempted under the PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. States and local jurisdictions may also make requirements or take other actions that are consistent with the PPIA, with respect to any other matters regulated under the PPIA.

Under the PPIA, States that maintain poultry product inspection programs must impose requirements on State-inspected products and establishments that are at least equal to those required under the PPIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

In the event of its adoption, no retroactive effect would be given to this proposed rule, no administrative procedures must be exhausted before any judicial challenge can be taken to the application of these provisions.

Effect on Small Entities

The Administrator has determined that this proposed rule will not have a significant effect on a substantial number of small entities. The small entities affected by this proposal are small poultry slaughtering establishments operating one or two slaughtering lines each staffed by one FSIS food inspector. They include establishments operating under the SIS–1 and NTIS–1 inspection systems, and some small entities operating under the traditional inspection procedures; these account for 75 of the approximately 300 poultry slaughtering establishments that would be affected by the proposed rule. Thus, the proposed rule would affect a substantial number of small entities.

It may be assumed that each establishment with only one single-inspector processing line would be required to make a one-time investment of about $10,000 for an inspection platform and installation, enhanced lighting, equipment installation to meet the requirement for antimicrobial treatment of dressed poultry, and training of establishment personnel. Each establishment with two lines could incur expenses of as much as $17,000.

Also, every establishment would be required to operate a finished product standards program. Establishments now operating under traditional inspection would thus assume a modest information collection burden.

However, there would be no production rate reductions and, in fact, small establishments could benefit from increases in production rates. For example, some processing lines staffed by a single FSIS inspector would now be staffed by two inspectors and plant sorters. That means that, consistent with physical plant limitations, the class of poultry processed, market demand for poultry products (which has been steadily increasing in recent decades), and the establishment's ability to maintain processing controls and quality standards, production rates on these processing lines could be increased with the adoption of the proposed rule. In the most favorable scenario, an establishment currently operating under traditional inspection and processing young chickens at the rate of 25 per minute would be able to increase its production rate up to 70 birds per minute. The increase in annual returns resulting from such a production-rate increase would more than offset any necessary one-time investment.

In addition, for reasons given in this notice in support of changes to the FPS, there would be greater assurances of processing stability and product quality under the proposed rule. Identification of product requiring rework would be more certain. Resulting efficiencies could be expected to yield returns that, combined with productivity gains, would offset outlays for equipment in the near term for most establishments.

For these reasons, therefore, the proposed rule would not have a significant net effect on a substantial number of small entities.

Paperwork Requirements

This proposed rule requires paperwork and recordkeeping activities that would provide FSIS with information to ensure that establishments are in compliance with the proposed regulations.

Each day, establishments would complete a form that reports that day's poultry condemnations. Also, under the proposed FPS program, establishments would report data on only one form. Under the current FPS system, establishments complete three forms to report data from FPS checks.

Establishments using chlorinated water to meet the proposed antimicrobial treatment requirements would be required to monitor the concentration by testing three times a shift and keeping on file records of the test results.

Any establishment wishing to operate an approved PQC program would have to send a copy of the program to the Administrator for approval. Additionally, an establishment wishing to use antimicrobial compounds not listed in the table of approved substances may request, in writing, approval for use of such compounds from the Administrator.

The paperwork requirements contained in this proposal have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the paperwork burden of this proposed rule should be sent to: Office of Management and Budget, Desk Officer for FSIS, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, and to the Clearance Office, Room 404–W, Administration Building, Washington, DC 20250.

List of Subjects in 9 CFR Part 381

Poultry inspection, Poultry and poultry products.

Proposed Rule

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR part 381 of the poultry products inspection regulations as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138F; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.36 would be amended by removing paragraphs (d) and (e) and by revising paragraph (c) to read as follows:

§ 381.36 Facilities required.

* * * * *

(c) *Facilities for post-mortem inspection.* The following facility requirements for post-mortem inspection are in addition to the other requirements to obtain a grant of inspection.

(1) The following provisions shall apply to every inspection station:

(i) The conveyor line shall be level for the entire length of the inspection. The vertical distance from the bottom of the shackles to the top of the adjustable platform (paragraph (c)(1)(iv) of this section) in its lowest position shall not be less than 60 inches.

(ii) Floor space shall consist of 4 feet along the conveyor line for each inspector, with a total of 8 feet for the two inspection stations, and 4 feet for the inspector helper provided by the establishment as required under § 381.76(d).

(iii) Guidebars shall be installed in all establishments so that the inspector will receive birds on at least 6-inch centers for young chicken lines and at least 12-inch centers for turkey lines. The guidebar must move the bird to the edge of the trough for the inspector, and provide smooth, steady, and consistent movement through both the on-line post-mortem inspection station and the on-line/off-line carcass inspection station.

(iv) The on-line post-mortem inspection station and the on-line/off-line carcass inspection station shall meet the requirements specified in § 381.53. Each inspection station shall have a platform that is slip-resistant and can be safely accessed by the inspector. The platform shall be designed so that it can be easily and rapidly adjusted for a minimum of 14 inches vertically while standing on the platform. The platform shall be a minimum length of 4 feet and have a minimum width of 2 feet; the platform shall be designed with a 42-inch high rail on the back side and with ½ inch foot bumpers on both sides and front to allow safe working conditions. The platform must have a safe lift

mechanism and be large enough for the inspector to sit on a stool and to change stations during breaks or inspector rotation.

(v) Conveyor line stop/start switches shall be located within easy reach of each inspector.

(vi) A trough or other facilities complying with § 381.53(g)(4) shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point after the second inspector. The trough must be of sufficient width to preclude trimmings, drips, and debris from accumulating on the floor or platforms. The clearance between the suspended carcasses and the trough must be sufficient to preclude contamination of carcasses by splash.

(vii) A minimum of 200 footcandles of shadow-free lighting with minimum color rendering index value of 85 [1] where the birds are inspected to facilitate inspection, notwithstanding the requirements of § 381.52(b).

(viii) "On-line" handrinsing facilities with a continuous flow of water conforming to § 381.51(f) shall be provided for and within easy reach of each inspector and each establishment employee working on the line.

(ix) Hangback racks shall be provided for and positioned within easy reach of the inspector.

(x) The on-line post-mortem inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall conform to the requirements of § 381.53(m).

(2) In addition to the requirements prescribed in paragraph (c)(1) of this section, the establishment shall provide safely accessible space for the on-line/off-line carcass inspector to perform on-line inspection checks of carcasses between the viscera harvest and the final wash.

(3) Reinspection stations for Finished Product Standards (FPS) monitoring, as prescribed in § 381.76(h), are required. The Agency will determine the number of stations needed in those establishments having more than one processing line or more than one chiller. One or more FPS reinspection stations shall be conveniently located at the end of the line or lines prior to chilling. Each reinspection station must meet the following provisions:

(i) Floor space shall consist of 3 feet along each conveyor line. The space shall be level and protected from all traffic and overhead obstructions.

(ii) A table at least 2 feet wide and 2 feet deep and 3 feet in height shall be provided for reinspecting the sampled carcasses, except that such a table shall be at least 3 feet wide and 2 feet deep in establishments processing turkeys. All such tables shall be designed to be readily cleanable and drainable.

(iii) A minimum of 200 footcandles of shadow-free lighting with a minimum color rendering index of 85 [1] on the table surface shall be provided.

(iv) A separate clip board holder shall be provided for holding the recording sheets.

(v) Hangback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of persons at the station.

3. Section 381.67 would be revised to read as follows:

§ 381.67 Maximum post-mortem inspection rates.

(a) The maximum post-mortem inspection rates for the classes of poultry are specified in the following table. Establishments that operate under an approved partial quality control (PQC) program, as prescribed in § 381.76(i), may operate at higher production rates when optimum conditions are met. These maximum rates shall not be exceeded.

MAXIMUM PRODUCTION RATES

Class of poultry	Birds per minute	
	With PQC	Without PQC
Young chickens	91	70
Young turkeys:		
	J-type opening cut	3-point suspension
Less than 16 pounds	51	20
More than 16 pounds	41	16
	Bar-type opening cut	3-point suspension
Less than 16 pounds	45	20
More than 16 pounds	35	16

(b) The inspector in charge or his or her designee shall be responsible for reducing production rates where, in the inspector's judgment, the post-mortem inspection procedure cannot be adequately performed with the time available because of either of the following conditions:

(1) The official establishment cannot present the birds in such a manner that the carcasses including both internal and external surfaces and all organs, are readily accessible for inspection, or

(2) The establishment cannot properly remove diseased birds or properly identify contaminated birds and birds for off-line trimming or knife salvage.

4. Section 381.68 would be removed and reserved.

5. Subpart I would be amended by adding a new § 381.69 to read as follows:

§ 381.69 Treating carcasses to reduce bacterial contamination.

(a) *General.* Raw, unchilled poultry carcasses shall be treated at any point during the slaughter and dressing operation to reduce levels of bacterial contamination on carcass surfaces.

(b) *Treatment methods.* Official establishments shall use any of the following treatment methods to reduce bacterial contamination, provided that the equipment used to apply the treatment has been approved under § 381.53, the operation of the method results in full compliance with the Act and this part, and that the method permits effective and efficient monitoring by program employees.

(1) Any chlorine compound approved by the Administrator and administered to raw, unchilled whole poultry carcasses or major carcass portions at 20 to 50 parts per million (ppm) in the intake water at the final wash. The Administrator will prepare a list

[1] This requirement may be met by deluxe cool white type of fluorescent lighting.

containing compounds approved for use in official establishments. A copy of the list may be obtained from the Compounds and Packaging Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

(i) The establishment must conduct three tests per 8-hour shift on the intake water of each final washer using a starch-iodide titration test kit, or any other chlorine analysis method acceptable to the IIC, to assure that chlorine intake levels are within the range prescribed above. An initial test must be conducted at the start of the shift before the first carcass enters the final washer. The two other tests must be conducted at randomly selected times during the shift. Records of chlorine test results that specify the time of the test, chlorine concentration levels, and the name and position of the person administering the test shall be on file in the establishment and shall be made available to program employees, upon request.

(ii) If the chlorine level is above or below the range of 20 to 50 ppm available chlorine in the final wash water, the establishment shall adjust the chlorine level to an acceptable level within 15 minutes. If adjustments are not made within 15 minutes, the establishment shall suspend the treatment and shall not permit any carcasses to enter the final washer until the chlorine level is within the prescribed range.

(2) Any antimicrobial compound listed in the table in § 381.147(f)(4) permitted for use on poultry products may be used under the conditions specified therein.

(3) Any compound previously approved for use in poultry or poultry products as a food additive or processing aid by the Food and Drug Administration (FDA) and listed in title 21 of the Code of Federal Regulations, parts 73, 74, 81, 172, 173, 182, or 184 may be used, provided the owner or operator has received approval for such use from the Administrator in accordance with section 381.147(f)(1). The owner or operator shall submit to the Administrator information and data indicating the site of application and that the substance is effective in reducing bacterial contamination on carcass surfaces, and its use is in compliance with applicable FDA requirements and will not render the carcass adulterated or misbranded or otherwise not in compliance with the requirements of the Act.

(4) Any countercurrent scalder, designed such that potable water enters at or near the point where carcasses exit the scalder, overflow outlets are located at or near the point where carcasses enter the scalder, and exiting carcasses do not come in contact with overflow water, that is used concurrently with a post-scald rinse may be used, provided the equipment is evaluated and found acceptable by the Administrator. The Administrator will prepare a list containing each model approved for use in official establishments. A copy of the list may be obtained from the Facilities, Equipment, and Sanitation Division, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

(5) Any mechanical process modifications, other than that listed in paragraph (b)(4) of this section, such as hot water rinses, used singly or in combination with approved antimicrobial compounds may be used, provided the owner or operator has received approval for such use from the Administrator. The owner or operator shall submit to the Administrator information and data indicating that the proposed method is effective in reducing bacterial contamination on carcass surfaces, and it will not render the carcass adulterated or misbranded or otherwise not in compliance with the requirements of the Act.

6. Section 381.76 would be amended by adding a heading for paragraph (a), revising paragraphs (b) and (c), and adding new paragraphs (d) through (h) to read as follows:

§ 381.76 Post-mortem inspection, when required; extent; rate of inspection.

(a) *General.* * * *

(b) *Line configuration.* There are two inspection stations located on each post-mortem inspection line. The first inspection station is located immediately after the establishment sorter or sorters who are positioned immediately after evisceration. This is known as the "on-line post-mortem inspection station." The second inspection station is located after the final wash and prior to the chiller. This is known as the "on-line/off-line carcass inspection station."

(c) *Presentation.* (1) The establishment is responsible for presenting to the on-line post-mortem inspector only carcasses that are free of pathology and disease that would result in condemnation, in accordance with this part, designated for trimming or knife salvage of such conditions, or designated for reprocessing. The establishment shall present each carcass to the on-line post-mortem inspector properly eviscerated with the back side toward the inspector and the viscera uniformly trailing or leading.

(i) The establishment shall place a sorter or sorters immediately after evisceration and prior to the on-line post-mortem inspector to sort the carcasses and remove and condemn the carcasses, as necessary, or designate the carcasses for knife salvage, off-line trimming, or reprocessing. The establishment sorter or sorters shall be positioned on the processing line in a manner that does not impede inspection. The establishment records the reason for condemnation of every carcass for each sorter.

(ii) The on-line post-mortem inspector shall assure that carcasses are appropriately designated for knife salvage, off-line trimming, or reprocessing, and that condemnable carcasses are condemned.

(iii) If the on-line post-mortem inspector finds any birds on the processing line that should have been condemned or designated for knife salvage, off-line trimming, or reprocessing, he or she shall stop the line for proper disposition, and require removal of such birds, and recording of condemned birds by the establishment. The on-line post-mortem inspector shall retain questionable birds for disposition by the inspector in charge.

(iv) Carcasses with certain defects not requiring condemnation of the entire carcass that were not designated by the establishment sorter for off-line trimming, knife salvage, or reprocessing shall be passed by the on-line post-mortem inspector, but he or she shall stop the line and the establishment shall be required to remove them for off-line trimming or knife salvage.

(v) Carcasses that are designated for off-line trimming shall be removed from the processing line by the establishment after the on-line post-mortem inspector and prior to viscera harvest.

(vi) Carcasses that are designated for knife salvage shall be removed from the processing line by the establishment after the on-line post-mortem inspector and before the viscera harvest.

(vii) Carcasses that are designated for reprocessing shall be removed from the processing line by the establishment after the on-line post-mortem inspector and prior to the viscera harvest and reprocessed at an approved reprocessing station, as prescribed in § 381.91(b). Such reprocessed birds shall be returned to the processing line by the establishment after viscera harvest and prior to the on-line/off-line carcass inspector for reinspection.

(2) The establishment is responsible for presenting to the on-line/off-line carcass inspector only carcasses that are

free of fecal contamination and have been properly trimmed or reprocessed.

(i) The establishment shall position a trimmer or trimmers between the viscera harvest and the final wash to trim carcasses for trimmable lesions and quality defects, and to remove for reprocessing carcasses that are contaminated on inner surfaces with feces. The trimmer or trimmers shall be positioned on the processing line in a manner that does not impede inspection.

(ii) If the on-line/off-line carcass inspector finds any carcasses on the processing line that should have been designated for reprocessing, he or she shall stop the line for proper disposition, and require removal of the carcasses, and recording of any such carcasses condemned by the establishment. Carcasses that are reprocessed by the establishment shall be returned to the processing line by the establishment at a point after the viscera harvest and prior to the on-line/off-line carcass inspector.

(iii) If the on-line/off-line carcass inspector finds any fecal contamination on a reprocessed carcass, the establishment shall be required to rework all remaining reprocessed carcasses in that reprocessed lot which shall be identified as prescribed in § 381.91(b).

(iv) Under the following conditions, the establishment's production rate shall be reduced immediately to the extent necessary to ensure process control in preventing fecal contamination, and for such duration, until FSIS determines that the establishment can demonstrate process control at the higher production rate:

(A) When the on-line/off-line carcass inspector finds any fecal contamination on a carcass, other than reprocessed carcasses, or

(B) When the establishment or the inspector finds any fecal contamination on a carcass during testing under the Finished Product Standards Program, as prescribed in paragraph (h) of this section.

(d) *Inspector helper.* The on-line post-mortem inspector shall be flanked by an establishment employee assigned to duties such as removing carcasses previously designated by the establishment for knife salvage, off-line trimming, or reprocessing or, as directed by the inspector, removing birds for veterinary disposition or correlation.

(e) *Inspection rates.* (1) Establishments shall operate at the rates prescribed in § 381.67. Establishments that operate under an approved PQC program, as prescribed in paragraph (i) of this section, may operate at higher rates than establishments operating without PQC.

(2) For the establishment to run its production line at maximum speed, optimal conditions must be maintained so that inspection may be conducted efficiently. The inspector in charge or his or her designee determines the speed at which each processing line may be operated to permit inspection. A variety of conditions may affect this determination including the health of each flock and the manner in which birds are being presented to the inspector for inspection and the accuracy of the establishment sorters.

(f) *Facilities.* Each inspection station must comply with the facility requirements in § 381.37(c).

(g) *Recordkeeping.* Establishments shall record information pertaining to the birds that are condemned.

(h) *Finished Product Standards.* The Finished Product Standards (FPS) shall be conducted in all poultry slaughter establishments.

(1) For purposes of this paragraph (h), the following definitions shall apply:

(i) *Cumulative sum (CUSUM).* A statistical concept used by the establishment and monitored by the inspector whereby compliance is determined based on sample results collected over a period of time. For purposes of determining compliance with the finished product standards, the CUSUM is equal to the sum of prior test results plus a measure of the current test minus the tolerance, with the condition that the resulting CUSUM cannot go below zero.

(ii) *Tolerance number.* A measure that equates to product being produced at a national product quality level.

(iii) *Action number.* A level reached by the CUSUM where the process is out of control and product action is required by the establishment or the inspector.

(iv) *Start number.* A value halfway between zero and the action number. The start number is used to determine the starting CUSUM for the first subgroup of a shift and to reset the CUSUM value if the CUSUM is equal to or greater than the action number.

(v) *Subgroup.* A 10-bird sample collected before product enter the chiller.

(vi) *FPS testing.* Testing conducted by the establishment to determine the CUSUM on consecutive 10-bird subgroup samples collected prior to product entering the chilling system.

(vii) *Rework.* Reconditioning the product to correct the condition or conditions causing the nonconformances listed in Table 1.

(2) Finished Product Standards are criteria applied to processed birds to ensure the product consistently meets ready-to-cook requirements. The FPS Program is designed to monitor the quality and effectiveness of the dressing and evisceration procedures. The criteria consist of nonconformances (see Table 1 of this section), the incidence of which is determined from 10-bird subgroup samples, reduced to a CUSUM number, and measured against the standards (see Table 2 of this section). Standards are applied to permit the Agency to estimate when the production process is in control and when it is out of control. The establishment is responsible for maintaining the FPS Program which, in turn, is monitored by the inspector. If an out-of-compliance condition is found, the product is segregated for rework, reworked, and retested before it may proceed into commerce.

(i) *Actions to be taken when the process is in control.* If the CUSUM is less than the action number and the most recent subgroup sample is tolerance or below, the process is judged to be in control.

(A) *Establishment actions.* The establishment shall:

(*1*) Randomly select and record subgroup sampling times for each production unit of time before product reaches the FPS reinspection station on the production line. In no case shall the time between tests exceed 1 hour of production time.

(*2*) Conduct a 10-bird subgroup test at a random time on each poultry slaughter line. These times are preselected by the establishment and available to the inspector prior to the start of the shift/day's operation. All 10 samples of the subgroup shall be collected at the random time.

(*3*) Record the test results. If the subgroup total is tolerance or below, conduct the next randomly scheduled subgroup test.

(B) *Inspector actions.* The inspector shall:

(*1*) Select random times for monitoring subgroup tests for each half-shift on the evisceration line. In establishments that have multiple evisceration lines on a production shift, monitor all lines of product at the random times.

(*2*) Collect the subgroup samples to be monitored at preselected times. All 10 samples of the subgroup shall be collected at the random time selected.

(*3*) Conduct the 10-bird monitoring subgroup test. Record the test results. If the subgroup total is tolerance or below, conduct the next randomly scheduled subgroup test.

(ii) *Actions to be taken with rising CUSUM.* If the establishment or

inspection subgroup test result is above tolerance, the process is judged to be under questionable process control.

(A) *Establishment actions.* The establishment shall:

(*1*) Immediately notify the inspector in charge and the production supervisor responsible for the affected evisceration line.

(*2*) Take specific process corrective actions for each FPS category with nonconformances to prevent the process from yielding product requiring rework. These actions are recorded on the FPS form.

(*3*) Suspend random time FPS testing. Conduct additional subgroup tests a minimum of 15 and a maximum of 30 minutes apart at the reinspection station to determine the adequacy of process corrective actions. Include the test results in the CUSUM. If the testing results in an additional subgroup total exceeding tolerance or CUSUM equals or exceeds the action number, identify subsequent product for rework and follow procedures for process out of control.

(*4*) If two consecutive additional subgroup tests a minimum of 15 and a maximum of 30 minutes apart demonstrate process control with subgroup totals equal to or less than tolerance, but they do not cause CUSUM to fall to the start line or below, reset CUSUM at the start number.

(*5*) Resume random time subgroup testing as set forth in actions to be taken when the process is in control.

(B) *Inspector actions.* The inspector shall monitor product and the effectiveness of process corrective actions by making spot-check observations to ensure that all program requirements are met.

(iii) *Actions to be taken when the CUSUM reaches the action number.* If the subgroup test results in CUSUM equal to or exceeding the action number, or results in a rising CUSUM and a subsequent subgroup test above tolerance, the process is judged not in control.

(A) *Establishment actions.* The establishment shall:

(*1*) Identify subsequent product for rework.

(*2*) Immediately notify the inspector in charge and production supervisor responsible for the affected evisceration line.

(*3*) Take specific process corrective actions for each FPS category with nonconformances to regain process control and minimize rework. These actions shall be recorded on the FPS form.

(*4*) Suspend random time testing. Conduct additional subgroup tests at the reinspection station to determine the adequacy of process corrective actions. Include the test results in the CUSUM.

(*5*) After two consecutive subgroup tests at least 30 minutes apart result in subgroup totals equal to or less than tolerance, identify product that will mark the end of the rework action.

(*6*) If two consecutive additional subgroup tests demonstrate process control with subgroup totals equal to or less than tolerance, but they do not cause CUSUM to fall to the start line or below, reset CUSUM at the start number.

(*7*) Resume random time subgroup testing as set forth in actions to be taken when the process is in control.

(B) *Inspector action.* The inspector shall monitor product and the effectiveness of process corrective actions by making spot-check observations to ensure that all program requirements are met.

(iv) *Off-line rework of product.* (A) When the product has been identified as having been produced when the process was not in control, off-line product corrective actions must take place. All corrective actions such as identifying affected product, segregating product, and maintaining control through rework actions are the establishment's responsibility.

(B) The inspector shall spot check the establishment's identification, segregation, and control of reworked product to ensure that program requirements are met. If the establishment fails in its responsibilities, the inspector shall identify, segregate, and retain affected product to prevent adulterated product from reaching consumers.

(C) Reworked product must be tested by the establishment with a randomly selected subgroup test of the accumulated reworked lot. Before product is released, the subgroup test must be less than or equal to tolerance. If the subgroup test of the reworked lot exceeds tolerance, the lot must be reworked again before another subgroup test is selected. The following actions are required.

(*1*) *Establishment actions.* The establishment shall:

(*i*) Select the 10-bird subgroup from throughout the lot only after the total lot has been reworked.

(*ii*) Conduct the 10-bird test.

(*iii*) Release the lot if the subgroup test is less than or equal to tolerance.

(*iv*) Identify and control the lot to be reworked again if the subgroup again exceeds tolerance.

(*2*) *Inspector actions.* The inspector shall spot check the rework procedure and testing to ensure that establishment monitoring and production meet the requirements of the program.

(3) *Trimmable Lesion/Condition Testing and Actions.* The trimmable lesion/condition test is designed to monitor the establishment's ability to remove trimmable lesions and conditions from inspected and passed carcasses. The trimmable lesions and conditions in this category include, but are not limited to, the definition of trimmable lesion/condition nonconformances (see Table 1). A 300-bird test is conducted on-line at the reinspection collection site at the end of the slaughter process. The test follows the same random schedule selected for FPS category testing and is conducted immediately following the FPS 10-bird test. Zero tolerance for trimmable lesion/condition nonconformances is met through testing and actions independent of the other FPS nonconformance categories. Trimmable lesions and conditions detected on carcasses through the FPS 10-bird test are removed before carcasses are returned to product flow. All product identified through the 300-bird on-line test as having trimmable lesions or conditions is retained, reworked, and retested before proceeding into commerce.

(i) *Actions to be taken when the process is in control.* When no trimmable lesions or conditions are found on the 300-bird on-line test, the process is judged in control.

(A) *Establishment actions.* The establishment shall:

(*1*) Randomly select and record subgroup sampling times for each production unit of time before product reaches the reinspection station on each production line. In no case shall a test represent more than 1 hour of production.

(*2*) Conduct 300-bird on-line test at random selected time on each poultry slaughter line. Record the test results. If no trimmable lesion/condition is detected, continue the random scheduled time 300-bird on-line testing.

(B) *Inspector actions.* The inspector shall:

(*1*) Select random times for 300-bird on-line tests for a minimum of each half-shift on each evisceration line. In establishments that have multiple evisceration lines on a production shift, monitor all lines of product at the random times.

(*2*) Conduct the 300-bird on-line test at random selected time on each poultry slaughter line. Record the test results. If no trimmable lesion/condition is detected, conduct the next 300-bird on-line test at random scheduled time.

(3) If either establishment or inspection monitoring finds a trimmable lesion/condition during a 300-bird on-line test, the process is judged out of control.

(ii) *Actions to be taken when the process is out of control.* When any trimmable lesions or conditions are found on the 300-bird on-line test, the process is judged out of control.

(A) *Establishment actions.* The establishment shall:

(1) Immediately identify subsequent product for rework.

(2) Immediately notify the inspector in charge of trimmable lesion/condition.

(3) Record specific process corrective actions taken for the trimmable lesion/condition category on the test sheet.

(4) Suspend random time testing for the trimmable lesion/condition category.

(5) Conduct additional 300-bird on-line tests after the final wash to determine the adequacy of process corrective actions.

(6) After a 300-bird on-line test is free of any trimmable lesion/condition:

(*i*) Identify product that will mark the end of the rework action.

(*ii*) Resume random time 300-bird on-line testing as set forth in actions to be taken when the process is in control.

(B) *Inspector actions.* The inspector shall monitor product and the effectiveness of process corrective actions by making spot-check observations to ensure that all program requirements are met.

(iii) *Off-line rework of product.* (A) When the product has been identified as having been produced when the process was not in control, off-line product corrective actions must take place. All corrective actions such as identifying affected product, segregating product, and maintaining control through rework actions are the establishment's responsibility.

(B) The inspector shall spot check the establishment's identification, segregation, and control of reworked product to ensure that program requirements are met. If the establishment fails in its responsibilities, the inspector shall identify, segregate, and retain affected product to prevent adulterated product from reaching consumers.

(C) Reworked product must be tested by the establishment with a randomly selected subgroup test of the accumulated reworked lot. Before product is released, the subgroup test must be free of any trimmable lesion/condition. If the subgroup test of the reworked lot detects a trimmable lesion/condition, the lot must be reworked again before another subgroup test is conducted. The following actions are required.

(1) *Establishment actions.* The establishment shall:

(*i*) Select a subgroup sample from throughout the lot only after the total lot has been reworked.

(*ii*) Conduct the rework subgroup test.

(*iii*) Release the lot if no trimmable lesion/condition is found in the reworked lot.

(*iv*) Identify and control the lot to be reworked again if any trimmable lesion/condition is found in the reworked lot.

(2) *Inspector actions.* The inspector shall monitor product and the effectiveness of process corrective actions by making spot-check observations to ensure that all program requirements are met.

Table 1—Finished Product Standards Definitions of Nonconformances

1 Bruises ≥½″

—Blood clumps or clots in the superficial layers of tissue, skin, muscle or loose subcutaneous tissue may be slit and the blood completely washed out. When the bruise extends into the deeper layers of muscle, the affected tissue must be removed. Very small bruises less than ½″ (dime size) and areas showing only slight reddening need not be counted as defects.
—Black/green bruises are bruises that have changed from red to a black/blue or green color due to age.
—Factor is one.
—A maximum of three incidents per carcass.

Breast Blister

—Inflammatory tissue, fluid, or pus between the skin and keel must be trimmed if membrane "slips" or if firm nodule is greater than ½″ in diameter (dime size).
—Factor is one.
—A maximum of one incident per carcass.

Sores, Scabs, Etc.

—Any defects such as sores, abscesses, scabs, wounds, dermatitis.
—Factor is one.
—A maximum of three incidents per carcass.

Untrimmed Short Hocks

—Factor is one.
—A maximum of two incidents per carcass.

2 Hair >¼″ 26 or more

—Hair which is one-fourth inch long or longer measured from the top of the follicle to the end of the hair. 26 or more hairs equal one incident.
—Factor is one.
—A maximum of one incident per carcass.

Feathers and/or Pinfeathers

—Attached feathers or protruding pinfeathers. Scored 1 to 5 per carcass as one incident, 5 to 10 per carcass as two incidents, and 11 or more as three incidents.
—Factor is one.
—A maximum of three incidents per carcass.

Long Shank—Both Condyles Covered

—Factor is one.
—A maximum of two incidents per carcass.

3 Compound Fracture

—Any bone fracture (i.e., leg, wing, or wingtip) that has caused an opening through the skin. May be accompanied with a bruise, but not always. Do not count the bruise in line 3 if it is associated with the compound fracture.
—Factor is one.
—A maximum of three incidents per carcass.

Note: Bruises not associated with the fracture should be recorded in the appropriate lines.

External Mutilation

—Mutilation to the skin and/or muscle that is caused by the slaughter, dressing, or eviscerating processes. Skinned elbows (bucked wings) do not require trim unless affected wing joint capsule is also opened.
—Factor is one.
—A maximum of three incidents per carcass.

4 Oil Glands Remnant or Whole

—Recognizable fragment(s) up to a whole of one or both oil glands equals one incident.
—Factor is one.
—Maximum of one incident per carcass.

5 Intestine

—Any identifiable portion of the terminal portion of the intestinal tract with a lumen (closed circle) present, or split piece of intestine large enough to be closed to form a lumen.
—Factor is one.
—A maximum of one incident per carcass.

Cloaca

—Any identifiable portion of the terminal portion of the intestinal tract with mucosal lining.
—Factor is one.
—A maximum of one incident per carcass.

Bursa of Fabricius

—A whole rosebud, or identifiable portion with two or more mucosal folds.
—Factor is one.
—A maximum of one incident per carcass.

6 Lung

—Any portion of a lung equals one incident.
—Factor is one.
—A maximum of one incident per carcass.

7 Esophagus

—Any portion of the esophagus with identifiable mucosal lining.
—Factor is one.
—A maximum of one incident per carcass.

Crop

—Any portion of the crop that includes the mucosal lining or any complete crop.
—Factor is one.
—A maximum of one incident per carcass.

Trachea

—Identifiable portion of trachea.
—Factor is one.
—A maximum of one incident per carcass.

8 Extraneous Material

—Include any specks, tiny smears, or stains of material that measure 1/16" or less in the greatest dimension.

Examples: Ingesta, unattached feathers, grease, and bile remnants, and/or whole gall bladder or spleen, embryonic yolk, etc.

—Factor is one.
—1 to 5 = 1 defect; 6 to 10 = 2 defects; 11 or more = 3 defects. A maximum of three incidents per carcass.

Extraneous Material >1/16"

—The same material as Extraneous material <1/16" but measuring >1/16" in the longest dimension.
—Any occurrence equals one incident.
—Factor is one.
—A maximum of three incidents per carcass.

9 Trimmable Lesions/Condition

—A trimmable tumor or identifiable portion of a tumor on any part of the carcass.
—Trimmable synovitis/airsacculitis (saddle/frog) lesions that have not been removed.
—Lesion/condition subject to removal following an approved cleanout process.

Examples: Salpingitis, nephritis, spleen, or liver conditions requiring removal of the kidneys.

—All kidneys from mature poultry.

Note: All establishments shall develop and maintain a permanent marking system that identifies carcasses with removable lesions/conditions on the inside surfaces. When removable lesions/conditions are identified inside the carcass by the establishment sorter, the sorter will apply the permanent mark. When removable inside lesions/conditions are found on a subgroup sample without the permanent mark, the error is not recorded. The affected carcass(es) will be hung back for IIC disposition and corrective action.

Table 2—Finished Product Standards Limits

Tolerance number (T)	25
Action number	10
Start number	5

(i) *Partial quality control program.* (1) Any owner or operator of an official establishment preparing poultry products who wishes to operate under an approved PQC program must submit to the Administrator a partial quality control program designed to assure that poultry is wholesome and properly prepared and shall request a determination as to whether or not that program is adequate to result in product being in compliance with the requirements of the Act and therefore qualify for the higher inspection rates specified in § 381.67.

(2) The approved quality control program for the establishment shall include control points on the line, which shall be monitored by the inspector.

(3) Establishment quality control employees shall operate the poultry carcass on-line quality control program and shall make immediately available to inspection personnel any and all data collected and maintained under the approved partial quality control program.

(4) An inspector shall monitor the establishment's application of the poultry carcass on-line quality control program and shall take corrective action when he or she determines that the establishment has failed to maintain or correct its process as described in the approved quality control program.

(5) The application, evaluation, and termination procedures for a PQC program are prescribed in § 381.145. If approval of the PQC program has been terminated in accordance with the provisions of § 381.145(g), an application and request for approval of the same or modified quality control program will not be evaluated by the Administrator for at least 2 months from the termination date. In order for the Department to provide the Federal inspection required under the Act, an establishment whose PQC program has been terminated will be allowed to continue operating at maximum inspection rates for establishments without PQC programs as prescribed in § 381.67, provided all requirements of the Act and regulations thereunder are met.

7. Section 381.91 would be amended by revising the last sentence of paragraph (b)(1), by redesignating paragraph (b)(2) as paragraph (b)(3), and by adding a new paragraph (b)(2) to read as follows:

§ 381.91 Contamination.

* * * * *

(b)(1) * * * All visible specks of contamination must be removed, and, if the inner surfaces are reprocessed other than solely by trimming, all surfaces of the carcass shall be treated with chlorinated water containing 20 ppm available chlorine or with any compound that is approved for poultry processing by the Food and Drug Administration and listed in title 21 of the Code of Federal Regulations, chapter I.

(2) When reprocessing carcasses, the establishment shall:

(i) Identify all reprocessed carcasses by lot in a manner acceptable to the inspector in charge,

(ii) Return each reprocessed lot to the processing line at a location after viscera harvest and before the on-line/off-line carcass inspector for reinspection, and

(iii) Comply with the general chilling time and temperature requirements prescribed in § 381.66(b)(2).

* * * * *

Done at Washington, DC, on July 7, 1994.

Patricia A. Jensen,

Acting Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 94–16817 Filed 7–11–94; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Strangulation Hazards Associated With Crib Toys; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission has decided to terminate a proceeding for the development of requirements to address strangulation

hazards to children associated with crib toys.[1] The Commission began this proceeding by publication of an advance notice of proposed rulemaking (ANPR) on October 19, 1990.

On October 26, 1993, the Commission voted to terminate this proceeding and to withdraw the ANPR published in 1990. The Commission took this action after considering written comments received in response to the ANPR and correspondence concerning this proceeding; information about strangulation deaths and injuries to children from January, 1973, through February, 1993; annual sales of crib toys and the number of crib toys currently in use; the potential effectiveness of labeling and other mandatory requirements to reduce strangulation deaths and injuries to children associated with crib toys; other written materials prepared by the Commission staff; an oral briefing presented by the Commission staff; and other information.

The Commission concluded that evidence is not available at this time to demonstrate that crib toys present an unreasonable risk of strangulation death or injury to children. The Commission also concluded that such evidence would not likely be developed if the proceeding were continued.

FOR FURTHER INFORMATION CONTACT: Celestine M. Trainor, Directorate for Epidemiology, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0468.

SUPPLEMENTARY INFORMATION:

A. Background

In 1990, the Commission granted a petition which requested issuance of a rule to address risks of strangulation deaths and injuries to children associated with certain crib toys and crib mobiles (1).[2] The petition used the term "crib toy" to describe a variety of toys which are intended to be strung across a crib or play pen or attached to the side of a crib or play pen and which are intended to be manipulated by infants. "Crib mobiles" are decorative articles which are designed to hang above a crib or play pen, but are not intended to be touched or manipulated by infants. The petition requested issuance of a rule to:

- Require that a crib gym or similar manipulative toy intended to be strung across the top of a crib must have a rigid horizontal suspension member attachable at or above the height of the crib side rails with no vertical protrusions;
- Prohibit any crib toy from having any protrusions which can catch clothing or any other item worn by an infant;
- Limit the length of any vertical string on any crib toy to six inches;
- Prohibit on any crib toy any cords or other components which form a perimeter greater than 14 inches;
- Prohibit on any crib toy any pull ring attached to a cord;
- Ban any crib mobile that can be located within reach of an infant who is not capable of pushing up on his or her hands and knees inside a crib;
- Require labeling and instructions for various crib toys and crib mobiles to warn of strangulation hazards associated with those products.

On October 19, 1990, the Commission published an advance notice of proposed rulemaking (ANPR) in the **Federal Register** (55 FR 42402) under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 et seq.) to begin a proceeding to develop the rule requested by the petition (2).

B. Statutory Authority

Section 2(f)1(D) of the FHSA (15 U.S.C. 1261(f)1(D)) defines the term "hazardous substance" to include "[a]ny toy or other article intended for use by children" which the Commission determines by regulation to present a "mechanical hazard." Section 2(s) of the FHSA (15 U.S.C. 1261(s)) provides that a toy or children's article may be determined to present a

> mechanical hazard if, in normal use or * * * reasonably foreseeable * * * abuse, its design or manufacture presents an unreasonable risk of personal injury * * * from * * * points or other protrusions, * * * openings, or closures, * * * or * * * because of any other aspect of the article's design or manufacture.

The Commission may make a determination that a toy or children's article presents a mechanical hazard by issuance of a regulation in accordance with provisions of sections 3(e) through (i) of the FHSA (15 U.S.C. 1262(e)–(i)). A toy or children's article which is the subject of a rule issued in accordance with provisions of sections 3(e) through (i) and which fails to comply with all requirements of such a rule is a "banned hazardous substance" as that term is defined by section 2(q)(1)(A) of the FHSA (15 U.S.C. 1261(q)(1)(A)). The introduction into interstate commerce of a banned hazardous substance is prohibited by section 4 of the FHSA (15 U.S.C. 1263).

Section 3(f) of the FHSA (15 U.S.C. 1262(f)) requires publication of an ANPR to begin a proceeding for issuance of a rule in accordance with sections 3(e) through (i) to make a determination that a toy or children's article presents a "mechanical hazard." Section 3(f) also sets forth requirements for the content of the ANPR.

In accordance with section 3(f) of the FHSA, the ANPR for crib toys identified the products and the risk of injury which are the subject of the rulemaking proceeding, and set forth the regulatory options under consideration by the Commission. The ANPR stated that the Commission was considering issuance of any or all of the requirements requested by the petition. The ANPR also summarized provisions applicable to crib toys in a voluntary standard published by ASTM (formerly the American Society for Testing and Materials), designated F963–86, Standard Consumer Safety Specification for Toy Safety. In addition, the ANPR stated that the Commission was also considering the possibility that this voluntary standard could be revised to address additional hazards associated with crib toys, or that a new voluntary standard could be developed to address those hazards (2).

As required by section 3(f) of the FHSA, the ANPR solicited comments from interested persons about the products and risk of injury under consideration; invited interested persons to submit an existing standard as the proposed regulation; and invited interested persons to submit a statement of intention to develop or modify a voluntary standard to address risks of strangulation death and injury associated with crib toys. (2) In response to the ANPR, the Commission received comments from 17 organizations and individuals (3–19). The Commission also received a joint-communication from six organizations concerning the proceeding for crib toys after the close of the comment period for the ANPR (20).

On September 21, 1993, the Commission staff transmitted to the Commissioners a briefing package of information concerning the development of requirements to address strangulation hazards associated with crib toys (21). On October 22, 1993, the staff presented an oral briefing to the Commission concerning this proceeding.

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[1] The Commission approved publication of this notice by a 2–1 vote, with Chairman Ann Brown dissenting. A copy of Chairman Brown's separate statement is available upon request from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800.

[2] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's Public Reading Room, 4330 East West Highway, Bethesda, Maryland, room 419, or by calling the Office of the Secretary at (301) 492–0800.

C. Action by the Commission

On October 26, 1993, the Commission voted to terminate the rulemaking proceeding applicable to crib toys and to withdraw the ANPR published on October 19, 1990.

To make a determination that a product presents an "unreasonable risk of injury" under the FHSA, the Commission considers:

- The nature and severity of the risk of injury associated with the product;
- The potential of mandatory requirements for the product to reduce the frequency and severity of the injury; and
- The effect of mandatory requirements on the cost, utility, or availability of the product.

Additionally, section 3(i) of the FHSA (15 U.S.C. 1262(i)) provides that in order to issue a final rule expressing the Commission's determination that a toy presents a "mechanical hazard," the Commission must prepare a regulatory analysis which includes a description of potential benefits and potential costs of the rule and identifies those parties likely to receive the benefits and to bear the costs. Section 3(i) provides further that the Commission may not issue a final rule unless it makes a finding that "the benefits expected from the regulation bear a reasonable relationship to its costs."

Applying the factors involved in the determination of an unreasonable risk of injury to the information developed during this proceeding, the Commission finds the following:

The Nature and Severity of the Risk of Injury

The nature of the risk of injury associated with crib toys is strangulation on the product. Strangulation injuries may result in death or permanent brain damage. For this reason, strangulation injuries have the potential to be of the utmost severity.

However, the likelihood of a strangulation incident involving a crib toy is relatively small. During the period from January, 1973, through February, 1993, 28 children died in strangulation accidents associated with crib toys, an average of three deaths every two years (22). During the same period, one child sustained permanent brain damage from a strangulation accident associated with a crib toy (22). At the same time, however, an estimated 10 to 25 million crib toys were sold each year, and an estimated 50 million crib toys were in use on any given date (23).

The Potential of Mandatory Requirements To Reduce the Frequency and Severity of the Risk of Injury

The information considered by the Commission indicates that the potential of mandatory requirements to reduce risks of strangulation death and injury associated with crib toys is limited.

A 1987 analysis of strangulation injuries associated with crib toys identified three hazard patterns involved in 32 fatalities. In seven of these fatalities, an article worn by the child, such as a bib or a necklace, caught on a protrusion of a crib toy (24). After publication of the ANPR, the Commission undertook additional work to identify characteristics of hazardous protrusions. However, the Commission has not been able to develop an objective test to distinguish those protrusions which present a strangulation hazard from those which do not (21, 25).

Another hazard pattern identified in the 1987 analysis was that of postural strangulation. In six of the fatalities described in that analysis, the child's head and neck were suspended over a horizontal cord. All but one of these cases involved crib gyms. The 1987 analysis recommended that the horizontal member of a crib gym should consist of a rigid structure rather than a cord, and that the design of a crib gym should not allow installation of the product below the height of the top rails of the crib sides (24). These recommendations were intended to eliminate the risk of postural strangulation associated with a crib gym left in a crib occupied by a child who is able to push up on his or her hands and knees (typically, a child older than five months of age).

However, after consideration of more recently developed information, the Commission is concerned that a design requirement for a rigid horizontal member on a crib gym could create other risks of injury to a child who is able to push up on his or her hands and knees. If one end of a crib gym with a rigid horizontal member became detached from the side of the crib and rested on the crib mattress, the crib gym might provide a means by which such a child could climb over the side rail of the crib (21). Additionally, if a crib gym with a rigid horizontal member were installed near the end panel of a crib, another risk of strangulation injury might result if that placement created an opening which would be large enough to allow a child's head to enter, but which would be too small for the head to exit if turned to another orientation (21).

The third hazard pattern discussed in the 1987 analysis of strangulation incidents associated with crib toys resulted when a child's neck became entangled in one or more strings or cords of a crib toy. Four of the fatalities discussed in that analysis resulted when a child's neck became entangled in two or more cords attached to a stuffed toy animal (24). A comment on the ANPR from an association of toy manufacturers observed that stuffed animal toys with attached suspension cords are prohibited by the voluntary toy safety standard, and that such toys have not been manufactured for several years (8). Two other fatalities discussed in the 1987 analysis resulted when a child's neck became entangled in a single vertical cord which extended from a crib toy (24). To address that risk of strangulation, the 1987 analysis recommended that the length of any vertical string attached to a crib toy should not exceed six inches. However, the comment from the association of toy manufacturers states that no report of any fatality resulting from entanglement in a single vertical cord extending from a crib toy has been received since 1986 when the voluntary toy safety standard was revised to restrict the length of such cords to less than 12 inches. (8)

The 1987 analysis of crib toy strangulation incidents also recommended that crib mobiles should be labeled to warn that the article should be kept out of the reach of infants, and should be removed when the infant attains the age of five months or is able to push up on his or her hands and knees. That analysis further recommended instructions accompanying crib toys should include warnings to place the crib mattress in one of the lower positions and to raise the crib drop side when attaching a crib toy. (24) However, the Commission has received newer information indicating that labeling alone cannot be expected to reduce strangulation hazards associated with crib toys (25).

The Effect of Mandatory Requirements on the Cost, Utility, and Availability of the Product

The Commission was unable to obtain information about the costs which might result to manufacturers or consumers from imposing any of the requirements for crib toys discussed in the ANPR. The Commission did not attempt to make cost estimates because of uncertainty about the numbers and specific kinds of crib toys which might be affected by each of the requirements discussed in the ANPR.

D. Voluntary Standard

The Commission also considered alternatives to development of mandatory requirements for crib toys. These alternatives included existing provisions of a voluntary standard for toy safety intended to address risks of strangulation injury associated with crib toys, and revisions of that voluntary standard which were under consideration at the time the Commission decided to terminate this proceeding.

The proposed revisions included the addition of design guidelines to the voluntary standard to minimize strangulation hazards from protrusions on crib toys. The guidelines are intended to be used by manufacturers in the development of crib toys (27, 28).

As noted above, the Commission staff was not able to devise objective criteria to identify protrusions on crib toys which present a strangulation hazard. In the absence of objective criteria to identify hazardous protrusions, the Commission concludes that addition of the proposed design guidelines to the voluntary standard would be worthwhile (27).

The revisions of the voluntary standard under consideration also included:

- Language to limit to 14 inches the perimeter formed by strings or cords which can tangle to form a loop;
- Improved warning labels concerning strangulation hazards associated with crib gyms and similar toys intended to be strung across the top of a crib or playpen;
- Addition of labeling requirements for crib mobiles to advise parents of precautions needed to minimize strangulation hazards associated with those products;

Addition of language to the instructions to accompany crib gyms and similar toys to advise parents of precautions to be taken to minimize strangulation hazards associated with those products. (27)

After considering information about the voluntary standard and proposed revisions of that standard, the Commission concludes that the proposed changes would adequately address the hazards identified in the ANPR.

Section 3(g)(2) of the FHSA requires the Commission to terminate a proceeding for the development of a rule to address an unreasonable risk of injury associated with a toy or children's article if the Commission determines that a voluntary standard developed or modified after publication of the ANPR adequately addresses the risk of injury under consideration and that substantial compliance with such a voluntary standard is likely to be achieved.

However, provisions of section 3(g)(2) apply only to a voluntary standard which has been "finally approved" by the organization which developed the standard. The proposed revisions of the ASTM voluntary standard for toys discussed above have not yet been finally approved by ASTM. For that reason, the Commission is not required by section 3(g)(2) of the FHSA to terminate this proceeding.

E. Conclusions by the Commission

From its consideration of all available information about risks of strangulation injuries to children associated with crib toys and mandatory requirements to address those risks, the Commission concludes that:

(1) To date, information has not been developed to establish that crib toys present an unreasonable risk of strangulation injury to children;

(2) Consequently, information has not been developed to establish that issuance of a mandatory rule for crib toys to address that risk of injury is reasonably necessary; and

(3) If this proceeding were continued, such information would not likely be developed.

The Commission also concludes that information is not now available or likely to be developed to support a finding that the expected benefits from a mandatory rule to address strangulation hazards associated with crib toys would bear a reasonable relationship to the costs imposed by such a rule. Such a finding is required by section 3(i) of the FHSA to issue a rule for crib toys.

Accordingly, the Commission hereby withdraws the ANPR published in the **Federal Register** of October 19, 1993 (55 FR 42402) to initiate a proceeding for development of requirements to address risks of strangulation deaths and injuries associated with crib toys.

Dated: July 7, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Petition from Consumer Federation of America and the New York State Attorney General's Office requesting issuance of a rule to ban certain crib toys, 74 pages, November 17, 1988.

2. **Federal Register** notice, "Strangulation Hazards Associated With Crib Toys; Advance Notice of Proposed Rulemaking," published by the Consumer Product Safety Commission, 4 pages, October 19, 1990 (55 F.R. 42402).

3. Comment from Daniel Chaucer, P.E., 3 pages, October 28, 1990.

4. Comment from Sligo International, 1 page, November 6, 1990.

5. Comment from The First Years, 2 pages, December 5, 1990.

6. Comment from U.S. Public Interest Research Group, 3 pages, December 12, 1990.

7. Comment from Fisher-Price, 8 pages, December 13, 1990.

8. Comment from Toy Manufacturers of America, Inc., 17 Pages, October 19, 1990.

9. Comment from Oregon State Public Interest Research Group, 4 pages, December 14, 1990.

10. Comment from Dolly, Inc., 2 pages, December 17, 1990.

11. Comment from Massachusetts Public Interest Research Group, 2 pages, December 17, 1990.

12. Comment from the Coalition for Consumer Health & Safety, 2 pages, December 18, 1990.

13. Comment from Consumer Federation of America, 9 pages, December 18, 1990.

14. Comment from Marcella V. Ridenour, 1 page, December 1, 1990.

15. Comment from Jolly Jumper, Inc., 2 pages, December 17, 1990.

16. Comment from J. M. Miller Engineering, Inc., 6 pages, November 17, 1990.

17. Comment from Allegheny County Health Department, 2 pages, December 18, 1990.

18. Comment from American Society of Safety Engineers, 2 pages, December 19, 1990.

19. Comment from Dorothy A. Drago, 2 pages, January 8, 1991.

20. Letter from Consumer Federation of America, Consumes Union, The Danny Foundation, National Safe Kids Campaign, Public Citizen Congress Watch, and U.S. Public Interest Research Group to Jacqueline Jones-Smith, Chairman, Consumer Product Safety Commission, 4 pages, October 25, 1993.

21. Memorandum from Celestine Trainor, Project Manager, to the Commission, subject "Options on Crib Toys," 15 Pages, September 21, 1993.

22. Memorandum from Suzanne P. Cassidy, EPHA, and Debbie Tinsworth, EPHA, to Celestine Trainor, EPHF, subject "Crib Toys—Data Update and Response to ANPR Comments on Strangulation Hazards," 2 pages, March 27, 1993.

23. Memorandum from Anthony C. Homan, ECPA, to Celestine Trainor, Project Manager, subject "Crib Toys—Regulatory Discussion," 2 pages, April 19, 1993.

24. Human Factors Evaluation of Provisions Which Address Crib Toy Strangulations in the Toy Safety Voluntary Standard," by Shelley Waters Deppa, 20 pages, July, 1987.

25. "Characteristics of Catch Point Incidents Contributing to Strangulation on Crib Toys and Other Children's Products," by Shelley Waters Deppa, 30 pages, October, 1992.

26. Letter from John Preston, ESME. to Charles A. Brooks, Fisher-Price, 2 pages, February 17, 1993.

27. Memorandum from Celestine Trainor, EPHF, to Jacqueline Elder, Director, EPHF,

subject "Comparison of Current and Proposed Voluntary Standard Requirements for Crib Toys and Staff Response," 6 pages, July 7, 1993.

28. Design Criteria, 1 page.

29. Press Release of Chairman Jacqueline Jones-Smith on Strangulation Hazards Associated with Crib Toys, 1 page, October 16, 1993.

30. Statement of Commissioner Carol G. Dawson on The Termination of Rulemaking on Crib Toys, 2 pages, October 26, 1993.

31. Statement of Mary Sheila Gall on Termination of the Rulemaking Proceedings Related to Crib Toys, 1 page, October 26, 1993.

[FR Doc. 94–16876 Filed 7–12–94; 8:45 am]

BILLING CODE 6355–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 22

Guides for the Hosiery Industry, Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Guides for the Hosiery Industry (59 FR 18004, April 15, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until July 14, 1994.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580. Submissions should be marked "Guides for the Hosiery Industry, 16 CFR Part 22—Comment."

FOR FURTHER INFORMATION CONTACT: Ann M. Guler, Investigator, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on April 15, 1994, published a request for comments on its Guides for the Hosiery Industry (59 FR 18004). The comments were to be accepted until June 14, 1994.

On June 2, 1994, the Commission received a letter from the Idaho State Treasurer seeking to extend the time period within which to submit comments. The letter states that the Office of the State Treasurer has "conducted extensive research in regard to the Hosiery Industry since 1990." To obtain the benefit of this research and to allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment until July 14, 1994.

Authority: 15 U.S.C. 68 *et seq.*

List of Subjects in 16 CFR Part 22

Advertising, labeling, hosiery.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–16949 Filed 7–12–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–94–064]

RIN 2115–AA97

Safety Zone; Widmann Wedding Fireworks Display, Sheffield Island, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone in Sheffield Harbor, around the fireworks barge C–33 located approximately 1200 feet northwest of the abandoned lighthouse on Sheffield Island, Norwalk, CT from 9:15 p.m. through 10 p.m. on September 17, 1994. This safety zone is needed to protect the maritime community from possible navigation hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Long Island Sound.

DATES: Comments must be received on or before August 12, 1994.

ADDRESSES: Comments may be mailed to the Captain of the Port, 120 Woodward Avenue, New Haven, CT 06512 or may be delivered to the Port Operations office at the above address between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (203) 468–4464.

The Captain of the Port maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the Port Operations office at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T.V. Skuby, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4464.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Due to the limited amount of time available prior to the event, only a 30 day comment period can be provided. Persons submitting comments should include their name and address, identify this rulemaking [CGD01–94–064] and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

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 Project Officer at the address under **ADDRESSES**. 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 LCDR T.V. Skuby, Project Officer, Captain of the Port, Long Island Sound, and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

The sponsor, Jim Widmann, President of CT Pyro Display Company, South Norwalk, CT has requested that a fireworks display be permitted in the port of Norwalk in the vicinity of Sheffield Island, Norwalk, CT, from 9:15 p.m. through 10 p.m. on September 17, 1994. The fireworks display is scheduled to celebrate the sponsor's wedding. The safety zone will cover all waters of Sheffield Harbor within a 1200 foot radius of the fireworks barge C–33, which will be located approximately 1200 feet northwest of the abandoned lighthouse on Sheffield Island, Norwalk, CT. This zone is required to protect the maritime community from the dangers and potential hazards to navigation associated with the fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on scene representative.

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 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.

The Coast Guard expects the economic impact to be minimal due to the limited duration of the fireworks display, the small size of the safety zone, the low level or non existent commercial vessel traffic expected in the area during the effective time of the zone, and the broadcast of marine safety advisories the day of the event.

Small Entities

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

For the reasons addressed in the Regulatory Evaluation above, 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.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the docket.

List of Subjects in 33 CFR Part 165

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

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR Part 165 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 section 165.T01–064 is added to read as follows:

§ 165.T01–064 Safety Zone; Widmann Wedding Fireworks Display, Sheffield Island, CT.

(a) *Location.* The safety zone includes all waters of Sheffield Harbor within a 1200 foot radius of the barge C–33, the fireworks launching platform, which will be located approximately 1200 feet northwest of the abandoned lighthouse on Sheffield Island, Norwalk, CT in approximate position 41°03′ N; 073°25.5′ W.

(b) *Effective date.* This section is effective from 9:15 p.m. through 10 p.m. on September 17, 1994, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations covering safety zones contained in section 165.23 of this part apply.

Dated: June 23, 1994.

T.W. Allen,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 94–16947 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 174

[OPP–250095; FRL–4874–9]

Notification to the Secretary of Agriculture of a Proposed Rule on Plant-Pesticides Subject to the Federal Insecticide, Fungicide, and Rodenticide Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agrculture, as required by section 25(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), a proposed rule under sections 3 and section 25(a) and (b) of FIFRA. EPA proposes to amend an existing regulation and to create a new regulation to clarify the relationship between plants and plant-pesticides and their regulatory status under FIFRA. EPA also proposes to exempt from FIFRA requirements classes of plant-pesticides that the Agency has determined pose low probability of risk and are not likely to cause unreasonable adverse affects on the environment. Recognizing the unique characteristics of plant-pesticides, the Agency proposes to create a new part in the CFR for regulations unique to plant-pesticides.

FOR FURTHER INFORMATION CONTACT: By mail: Bernice Slutsky, Science and Policy Staff, Office of Prevention, Pesticides and Toxic Substances (7101), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. E–627, 401 M St., SW., Washington, DC, (202–260–6900).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

List of Subjects in Parts 152 and 174

Environmental protection, Biotechnology, Pesticides, Plants, Plant-pesticides, Reporting and recordkeeping requirements.

Dated: June 16, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 94–16859 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 8F3658/P584; FRL–4871–2]

RIN 2070–AC18

Pesticide Tolerances for Triasulfuron

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to extend the tolerances for residues of the herbicide triasulfuron [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-chloroethoxy)phenylsulfonyl]urea] in or on barley and wheat grain at 0.02 part per million (ppm); barley and wheat straw at 2.0 ppm; barley and wheat forage at 5.0 ppm; meat, fat and meat by products (excluding kidney) of cattle, goats, hogs, horses, and sheep; kidney of cattle, goats, horses, and sheep at 0.2 ppm; and milk at 0.02 ppm. The Agency has not completed the regulatory assessment of our science findings; therefore, the Agency is proposing to extend these tolerances for 1 year.

DATES: Comments, identified by the document control number [PP 8F3658/P584], must be received on or for August 12, 1994. These tolerances will expire on March 13, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by making any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in public record. Information not marked confifidential may be disclosed pubicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFROMATION: In the Federal Register of March 13, 1992 (57 FR 8844), EPA issued a final rule which established tolerances for residues of the herbicide triasulfuron [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-chloroethoxy)phenylsulfonyl]urea] in or on barley and wheat grain at 0.02 ppm; barley or wheat forage at 5.0 ppm; barley and wheat straw at 20 ppm; meat, fat, and meat byproducts (excluding kidney) of cattle, goats, hogs, horses, and sheep at 0.1 ppm; and milk at 0.02 ppm, with an expiration date of March 13, 1995. These tolerances with an expiration date were required by EPA to allow the petitioner, Ciba-Geigy Corp. to submit additional data required in the area of environmental fate and groundwater, and to allow the Agency to complete the regulatory assessment of its scientific findings. The petitioner has submitted all the required data. Because the Agency has not completed the regulatory assessment of its scientific findings, EPA is amending 40 CFR 180.459 to extend the expiration date for these tolerances until March 13, 1996.

Based on the information cited above and in the document establishing the time-limiting tolerance for triasulfuron (57 FR 8844, March 13, 1992), the Agency has determined that when used in accordance with good agricultural practice, this ingredient is useful and the tolerances will protect the public health. Therefore, EPA is proposing to extend the tolerances as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 8F3658/P584]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Enviromental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 27, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By revising § 180.459, to read as follows:

§ 180.459 Trisulfuron; tolerances for residues.

Tolerances, to expire on March 13, 1996, are established for residues of the herbicide triasulfuron [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-(2-chloroethoxy)phenylsulfonyl)urea] in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, forage	5.0
Barley, grain	0.02
Barley, straw	2.0
Cattle, fat	0.1
Cattle, kidney	0.2
Cattle, mbyp (except kidney)	0.1
Cattle, meat	0.1
Goats, fat	0.1
Goats, kidney	0.2
Goats, mbyp (except kidney)	0.1
Goats, meat	0.1
Hogs, fat	0.1
Hogs, kidney	0.2
Hogs, mbyp (except kidney)	0.1
Hogs, meat	0.1
Horses, fat	0.1

Commodity	Parts per million
Horses, kidney	0.2
Horses, mbyp (except kidney)	0.1
Horses, meat	0.1
Milk	0.02
Sheep, fat	0.1
Sheep, kidney	0.2
Sheep, mbyp (except kidney)	0.1
Sheep, meat	0.1
Wheat, forage	5.0
Wheat, grain	0.02
Wheat, straw	2.0

[FR Doc. 94–16860 Filed 7–12–94; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

[BPO–111–N]

RIN 0938–AG06

Medicare Program; Intermediary and Carrier Functions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period on the proposed rule we published in the **Federal Register** on February 22, 1994 concerning Medicare intermediary and carrier functions.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m., by October 11, 1994. Comments received after the original comment period ending date of April 26, 1994 and before July 13, 1994 also will be considered.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–111–P, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your comments to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) transmissions. In commenting, please refer to file code BPO–111–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (410) 966–7411). This notice is effective immediately.

FOR FURTHER INFORMATION CONTACT: Alan Bromberg, (410) 966–7441.

SUPPLEMENTARY INFORMATION: On February 22, 1994 (59 FR 8446), we published a proposed rule in the **Federal Register**, that would revise the list of mandatory functions included in agreements with Medicare fiscal intermediaries pursuant to section 1816 of the Social Security Act. We would require that the intermediary agreements include, as functions, the statutory requirements that intermediaries determine proper payment amounts and pay bills. All other functions would be optional. We proposed that all functions included in contracts with Medicare carriers be optional, since section 1842 of the Act does not list mandatory functions. These changes would provide us with the flexibility to transfer functions from one intermediary or carrier to another or to otherwise limit the functions an intermediary or carrier performs when we determine to do so would result in more effective and efficient program administration. The comment period for the February 22, 1994 proposed rule ended on April 25, 1994. We are extending the comment period and will consider comments if we receive them at the appropriate address, as provided in the February 22, 1994 proposed notice, by October 11, 1994. All comments received between April 26, 1994, and the date of publication of this notice will be accepted.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93–774, Medicare—Supplementary Medical Insurance Program)

Dated: May 18, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: May 30, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–16885 Filed 7–12–94; 8:45 am]
BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 94–54; FCC 94–145]

Equal Access Obligations of Commercial Mobile Radio Service Providers; Interconnection Obligations of Local Exchange Carriers to Commercial Mobile Radio Service Providers; Interconnection Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making; Notice of Inquiry.

SUMMARY: This Notice of Proposed Rule Making (NPRM) initiates a rule making proceeding to examine whether equal access obligations should be imposed on commercial mobile radio service (CMRS) providers, and whether the interconnection arrangements between local exchange carriers (LECs) and CMRS providers should be tariffed. The Notice of Inquiry (NOI) initiates a broad inquiry into whether the Commission should impose interconnection obligations on CMRS providers. The NOI also explores resale obligations and asks parties to address the extent to which those obligations should be imposed on CMRS providers.

DATES: Comments must be filed on or before August 30, 1994, and reply comments on or before September 29, 1994.

FOR FURTHER INFORMATION CONTACT: Barbara Esbin, Common Carrier Bureau, Tariff Division, (202) 418–1520.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Notice of Inquiry (*Notice*) in CC Docket No. 94–54, FCC 94–145, adopted June 9, 1994, and released July 1, 1994.

The complete text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), at (202) 857–3800, 1919 M Street, NW., Room 246, Washington, DC 20554.

Synopsis of Notice

1. The *Notice* tentatively concludes that the Commission has authority

under Section 201 of the Communications Act to order equal access when it is in the public interest. The Notice also tentatively concludes that the public interest evaluation depends upon an analysis of market power, as well as other important factors such as customer choice, increased end user access to networks, access to a wider array of IXC service offerings, and elimination of the different regulatory treatment of the Bell Operating Company affiliated cellular carriers. The *Notice* seeks comment on these tentative conclusions regarding the relevant legal standard and public interest criteria, and invites parties to suggest other relevant factors or policy goals that should be included in the public interest analysis under Section 201.

2. This *Notice* proposes to require that cellular licensees provide equal access to interexchange carriers (IXCs) and seeks comment on whether equal access obligations should be imposed on other CMRS providers, including resellers of CMRS. Currently, the Commission does not require CMRS providers to provide equal access.

3. The *Notice* notes that the Commission has a more fully developed record on the issue of equal access for cellular service than for any other CMRS provider and observes that cellular service is an established, rapidly growing service that provides many customers with alternate access to networks and services. Because of the limited record as to the service characteristics of other CMRS providers, such as those that will provide PCS, specialized mobile radio service or improved mobile telephone services, the *Notice* reaches no tentative conclusions for other CMRS providers. Rather, it seeks comment on whether the public interest would be served if equal access obligations were extended to CMRS providers other than cellular providers.

4. The *Notice* tentatively concludes that the Commission should adopt a service area boundary definition for purposes of the equal access obligation, and seeks comment on the circumstances under, or point at which, a cellular carrier must hand off a call to an interexchange carrier.

5. The *Notice* also tentatively concludes that any equal access obligation should be implemented on a gradual, phased-in basis and seeks comment on the method that should be employed. In addition, it seeks comment on service characteristics and other technical issues related to the implementation of equal access and related cost issues.

6. The *Notice* seeks comment on whether the Commission should require LECs to offer interconnection under tariff, or whether the Commission should retain its current requirement that LECs establish, through good faith negotiations with CMRS providers, the rates, terms and conditions of interconnection.

7. The *Notice* also seeks comment on whether in lieu of imposing a tariff filing obligation, the Commission should revise the good faith negotiation requirement by adding two new safeguards against unreasonably discriminatory rates or conditions.

8. The NOI portion of the *Notice* asks for comment on the issue of whether the Commission should require CMRS providers to furnish interconnection to other mobile service providers. The NOI states that if the Commission determines that imposing interconnection obligations would be in the public interest, Section 201(a) of the Communications Act gives the Commission the authority to order CMRS providers to establish physical connections with other carriers. The NOI seeks comment on whether there are public interest concerns that would justify imposing interstate interconnection obligations regardless of whether CMRS providers control bottleneck facilities. Further, the NOI seeks comment on whether, if the Commission concludes that imposition of CMRS interconnection obligations is not necessary at this time, it should examine the future need for such obligations as part of an effort to monitor the CMRS marketplace. The NOI requests parties to comment on the nature and scope of interconnection obligations the Commission should establish if the Commission decides to impose such obligations. The NOI also seeks comment on whether some or all CMRS providers other than cellular licensees should be required to resell service to facilities-based or non-facilities based CMRS competitors.

Ex Parte Rules

9. This is a non-restricted notice and comment rule making proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules.[1]

Regulatory Flexibility Act

10. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et. seq.* (1981), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of the policies and rules proposed in this Notice on small entities. The IRFA is contained in Appendix B to the *Notice*. The Secretary shall cause a copy of this *Notice*, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

Authority

11. This action is taken pursuant to Sections 1, 4(i), 4(j), 201, 202, 208, 332, and 403 Communications Act as amended; 47 U.S.C. 154(i), 201, 202, 208, 332, and 403.

12. Accordingly, it is ordered that notice is hereby given of the proposed regulatory changes described above, and that comment is sought on these proposals.

13. It is further ordered that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with William F. Caton, Acting Secretary, Federal Communications Commission, Washington, DC 20554 on or before August 30, 1994, and reply comments shall be filed with the Secretary on or before September 29, 1994. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. Parties wishing each Commissioner to receive a personal copy of their comments must file an original plus nine copies.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 94–16881 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

[1] See generally, Section 1.1206(a) of the Commission's Rules, 47 C.F.R. 1.1206(a).

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47 CFR Part 74

[MM Docket No. 93–24, FCC 94–148]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; ITFS Filing Window

AGENCY: Federal Communications Commission.

ACTION: Order and Further Notice of Proposed Rulemaking.

SUMMARY: This *Order and Further Notice Proposed Rulemaking* seeks comments on issues relating to the filing of applications for new Instructional Television Fixed Service (ITFS) facilities, applications for major changes in existing facilities, and major

amendments to pending applications. Earlier in this proceeding, the Commission solicited comments on a proposal to institute a window filing procedure for such applications, in order to stem the processing backlog. The *Order and Further Notice of Proposed Rulemaking* seeks comment on how the Commission's Rules might be revised to enhance the efficiency of a window filing system. It also lifts the freeze on the filing of applications of major changes to licensed facilities. The *Order and Further Notice of Proposed Rulemaking* responds to the comments received in response to the *Notice of Proposed Rulemaking* in this proceeding.

DATES: Comments are due by August 29, 1994 and reply comments are due by September 28, 1994.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, Video Services Division, (202) 418–1630.

SUPPLEMENTARY INFORMATION: This is synopsis of the Commission's *Order and Further Notice of Proposed Rulemaking* in MM Docket No. 93–34, adopted on June 9, 1994, and released on July 6, 1994. The *Notice of Proposed Rulemaking* initiating this proceeding may be found at 58 FR 12011 (March 2, 1993).

The complete text of this *Order and Further Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of Order and Further Notice of Proposed Rulemaking

1. This *OFNPRM* further considers amending the Commission's rules to alter the procedures governing the acceptance of applications for new Instructional Television Fixed Service (ITFS) stations, major amendments to such applications, or major changes in existing stations. We also seek comment on several additional proposals put forth by the commenters and on our motion intended to increase the efficiency and curtail potential abuse of our application processes. Finally, we modify the freeze on the filing of major change applications, which we adopted earlier in this proceeding, to permit the filing of major change applications and any competing applications thereto.

2. Our goal in this proceeding is to enhance the efficiency of our processing of ITFS applications. The *Notice* asserted that changes in the ITFS service in the last decade have fostered a substantial increase in the rate of applications filed for new ITFS stations or major changes in existing stations, creating a significant backlog. The *Notice* tentatively concluded that the existing cut-off filing system, which requires each application to be processed twice, significantly exacerbates the backlog. We proposed a window filing procedure for applications for new facilities, applications for major changes in existing facilities, and major amendments to pending applications. We would accept such applications only during specific times, or "windows." This would allow us to eliminate the duplicative processing and control the flow of applications, thereby improving processing efficiency. *Notice of Proposed Rulemaking* in MM Docket No. 93–24, 58 FR 12011 (March 2, 1993).

3. While most commenters agree that the current filing system is inefficient and unnecessary, they are divided on the adoption of a window filing procedure. Supporters of the proposal generally agree that a window filing procedure will help eliminate the inefficiencies resulting from the A/B cut-off system that were discussed in the *Notice*. Under the A/B cut-off system, educators with wireless cable lessees would at times file applications simply to be mutually exclusive with applicants listed on an "A" cut-off list. The proposed window filing procedure would eliminate this practice.

4. However, several commenters argue that the adoption of a filing window system without concomitant safeguards against abuse would not increase processing efficiency. According to these parties, a window filing system would encourage some wireless cable entities to persuade educational institutions to submit excessively large and unrealistic numbers of applications, thereby allowing the wireless cable entity to warehouse spectrum. They assert that such wireless cable entities do not intend to construct, but rather seek a profitable bargaining position with allegedly "legitimate" wireless cable developers. The commenters add that a wireless cable operator that plans to construct may not be ready during a filing window to associate with schools and prepare its applications. Alternatively, they assert that wireless cable operators that do intend to construct would have to file applications in every market in which they hope eventually to operate, in order to protect themselves from spectrum speculators, diminishing processing efficiency.

5. Some parties argue that a window filing system is inappropriate for educational applicants not associated with a wireless cable lessee, because they require up to 18 months to approve the project and authorize the funds needed for construction. Thus, NIA states that such institutions would not be able to respond in time to a Public Notice of a window. Also, several parties assert that any window filing procedure must account for the annual January grant application deadline of the National Telecommunications and Information Administration (NTIA).[1]

6. *Discussion* Under the existing cut-off filing system, each application must undergo a substantive engineering analysis upon filing, simply to allow the release of an "A" cut-off list. No applications are granted or denied in this stage of processing. Subsequently, each application undergoes a second technical analysis in order to determine whether it is grantable. Because each of these analyses requires significant resources, the elimination of the duplicative step would substantially improve processing efficiency. Moreover, a window filing procedure would deny frequency speculators with no intention to construct the opportunity to file against applications on an "A" cut-off list. These benefits would significantly improve the Commission's workflow management.

7. In addition, the record reflects that educators would be able to prepare adequately for each subsequent filing period, due especially but not solely to the significant involvement of wireless cable operators in financing and constructing the facilities. Most of these wireless cable operators have substantial experience in filing for Commission licenses. The record reflects no reason why educators without excess capacity leases will not be able to prepare as before for the financing and construction of an ITFS facility. An ongoing series of filing windows will still ensure an opportunity for such educators to file when they are ready. Indeed, because "A" cut-off lists are not announced in advance or released pursuant to a formal schedule, these educators would be in the same position under the window system as they are now. Consequently, educators that do not rely on excess

[1] NTIA provides grants to educational institutions for the construction of ITFS facilities.

capacity lessees will not be disadvantaged by the change to a window filing system. for the same reason, the consequences are identical as under the existing system for parties simply not prepared to file during a window.

8. Also, in order not to obstruct NTIA grants, we propose allowing each December the tendering of applications that rely upon NTIA funding. We would consider such applications, if filed outside a window period, as having been filed during the immediately following window.

9. Accordingly, we are inclined to adopt the window filing procedure. We also acknowledge the concerns of the commenters that the window filing procedure may not by itself alleviate the problems faced by applicants and the Commission. Thus, as discussed further below, we seek comment on how we can achieve the significant benefits of a window filing system while minimizing filing practices that impede efficient processing.

Proposals To Improve the Application Process

10. *Financial Qualifications* To deter a significant number of ITFS speculators, some commenters advocate requiring applicants or their proposed wireless cable lessees to submit with their applications proof of their financial ability to construct.[2] Moreover, they propose requiring separate financial documentation for each station applied for, and making the wireless cable lessee submit the documentation when it is paying for construction of the facilities.

11. We request comment on this proposal. We believe that its adoption may deter a significant number of speculative applications. However, we recognize that adoption would entail significant costs. Compiling the necessary documentation could impose a significant burden on educational institutions, especially those not leasing their excess capacity. Further, any enhanced efficiency might be eviscerated by our having to allocate substantial staff resources to the analysis of each financial submission. In addition, the requirement could become a basis for the filing of frivolous petitions, further delaying the grant of applications. We seek comment on how to balance these costs and benefits. Moreover, we note that wireless cable lessees are not parties to ITFS applications. Thus, we ask commenters to address whether it would be appropriate to require lessees to routinely submit demonstrations of their financial ability. Commenters should also address whether our existing rules and policies on misrepresentation sufficiently prohibit parties from falsely certifying their financial ability to construct.

12. *Application Caps* Next, we turn to two related proposals by the Educational Parties. The first is a cap of three to five applications that an individual nonlocal ITFS entity could file during a window. Such applicants, according to the Educational Parties, often work with frequency speculators and, backed by these wireless cable entities, submit a number of applications simply to bargain with other wireless cable entities seeking to construct a viable wireless cable system. Second, they propose an additional cap of 25 applications associated with the same wireless cable entity, including any entity with direct or indirect common ownership or control. According to the Educational Parties, wireless cable lessees should have to file with their associated ITFS applications information detailing who has any direct or indirect interest in the wireless cable lessee, including any interests as an owner, officer, or director.

13. We invite comments on whether circumstances at this time warrant inquiry into either of the proposed measures. Adoption of either proposal might diminish the number of applications submitted, thereby easing the processing burden substantially. In addition, it would likely limit multiple filings by frequency speculators and their affiliated applicants. However, wireless cable operators require a minimum number of channels with which to operate a viable wireless cable system. Thus, stringent caps could obstruct the rapid development of robust wireless cable systems that can vigorously compete in the rapidly expanding video marketplace. They could also retard the development of ITFS systems, which often obtain funding from the wireless cable lessees. Also, commenters should address how to justify the proposed discrimination against nonlocal applicants. We note that such entities establish eligibility through letters of intended use from an official of each receive site, and through the service on a local programming committee of an official of each receive site. Thus, we invite commenters to address whether and what kinds of limitations would promote both ITFS and wireless cable development. How can we balance the efficiencies of such limitations with the costs they might impose? If an application ceiling would serve the public interest, how many applications associated with one entity should we allow per window? How would we define common control for the purpose of either ITFS or wireless cable? Should we base our definition on actual control, or on attribution of ownership?

14. *Expedited Consideration of Applications* The Educational Parties and WCA propose that, under certain circumstances, we give expedited consideration to ITFS applications in return for the applicant's agreeing to an accelerated construction schedule. WCA suggests that a wireless cable lessee be able to request and obtain expedited consideration of an application with which it is associated, if the lessee has access to a certain minimum number of channels in the area.[3] In return, grantees would be required to order their equipment within 21 days of Public Notice of the grant, and construct the facilities within six months. Extensions would be granted only under compelling circumstances, such as the inability of the manufacturer to deliver timely ordered equipment, or accidental damages to essential equipment. WCA claims that adoption of the proposal would accelerate the development of both ITFS and wireless cable systems. In addition, the Educational Parties propose that educators without excess capacity leases also have access to such expedited consideration.

15. While we do not now view the implementation of the proposal as practical, we invite comments on the proposal and how it might be implemented. The staff may have to expend substantial resources determining which applications were eligible for expedited consideration, enforcing the requirement for ordering equipment, and enforcing the construction deadline, thereby delaying service to the public. Also, would the public be served if we denied an extension request when construction is nearly complete at the end of the six months? Finally, the likely substantial number of applicants requesting expedited consideration could defeat the purpose of the proposal. In the alternative, would processing efficiency be adequately improved by a stricter enforcement of the existing requirements for extensions of time?

[2] Currently, applicants are required to certify their financial ability.

[3] WCA proposes expedited consideration only if the wireless cable lessee already has 12 channels, at least 4 of which are MDS. This would include licensed access to MDS or ITFS stations, cut-off non-mutually exclusive proposed MDS facilities, and/or proposed ITFS stations (including the ones at issue). WCA Comments at 7.

16. *Assignment of Construction Permits* We now turn to a related proposal to diminish the incentive of frequency speculators to submit applications for permits that they intend to later assign for profit. We propose to formalize our current practice of limiting the allowable consideration for unbuilt ITFS facilities to out-of-pocket expenses, as is now applied to the sale of broadcast construction permits. We seek comment on the proposal.

17. *Application of the Four-Channel Rule* Section 74.902(d) of the Commission's Rules generally limits an ITFS licensee to four channels for use in a single area of operation. However, we have not clearly defined what constitutes an "area of operation" for the purpose of the rule. A clear benchmark would make the standard easier for applicants to comply with and would also increase the speed of processing.

18. The staff has considered a single area of operation for this purpose to extend no farther than 20 miles from the transmitter site. We seek comment on whether we should adopt that figure as a rule. Commenters should address whether an educational institution is likely to routinely serve an area extending beyond that radius. Alternatively, should we instead define an area of operation in terms of interference, rather than of distance? Specifically, we seek comment on whether we should consider two sites to be in different areas of operation, as long as one could operate at maximum authorized power on the same channel at each site without co-channel interference.

19. *Offset* We next turn to our policies toward offset.[4] Currently, we apply the 28dB D/U ratio standard to determine co-channel interference. However, we do not require offset if an objection is raised by one of the affected parties. Instead, we have encouraged privately negotiated agreements to use offset to resolve interference. Consequently, we must decide between two mutually exclusive applications when, if the applicants used offset, both could serve the public without objectionable co-channel interference. To require offset between otherwise grantable mutually exclusive ITFS applicants would help maximize the number of educational entities that can avail themselves of the service. Thus, we propose requiring the use of offset in such circumstances when all affected transmitters are capable of handling frequency offset stability requirements. Such a requirement, we believe, would both accelerate the granting of applications and allow for a greater number of ITFS licensees, thereby increasing service to the public. Also, although we currently require new applicants to use equipment capable of utilizing offset, we have not always done so. Accordingly, we would not apply the proposed rule to facilities predating the requirement that lack offset capability.

20. *Protected Service Areas.* In addition to receive site protection, ITFS applicants can request interference protection for a service area.[5] We provide such protection only at an applicant or licensee's request. Generally, such protection benefits the wireless cable lessee, because the protected service area ensures interference protection within an area where receive sites are not specified, or extended protection over an area where receive sites are not currently located. Moreover, the protection is afforded only during the hours that the wireless cable entity is using the channels.

21. Protected service areas are intended to provide a measure of protection to wireless cable lessees, in order to promote the inauguration of new or improved wireless cable service. However, the protected service area has frequently been used in ways that we had not contemplated. Specifically, applicants for new facilities often request and receive interference protection that restricts an existing licensee from seeking certain modifications to its facilities. In addition, otherwise grantable ITFS applications in adjacent communities often obtain interference protection, causing them to become mutually exclusive with a previously filed application. At the same time, an existing facility that has not requested such protection often, upon learning that an application for a nearby operation has been filed, requests interference protection and thereby obstructs the new applicant. We believe that these practices may be an abuse of our processing system driven by certain wireless cable lessees, designed to prevent or dilute competition. Further, this practice significantly impacts our processing and delays the inauguration of new or improved service to the public. Moreover, such practices unfairly disrupt existing operations and already-proposed facilities.

22. In order to hasten service to the public, then, we propose to modify our application of interference protection. Specifically, we propose to apply such protection only prospectively. Thus, it would be effective only with regard to applications filed after the protection request. Commenters are invited to address whether our proposal would sufficiently diminish the disruption and delay resulting from the current method of granting interference protection. We also seek comment on a particular application of the proposed rule. Specifically, if two applications submitted during the same filing window, otherwise grantable, are mutually exclusive only because both applicants request a protected service area, we propose to consider them as mutually exclusive. We invite comments on this proposal.

23. *Receive-Site Interference Protection.* Pursuant to § 74.903 (d) and (e) of the Commission's Rules, an ITFS licensee, permittee, or applicant may request interference protection for its receive sites. The rule does not expressly limit the distance a receive site may be from the transmitter in order to receive such protection. As a result, we have received numerous applications in which interference protection has been requested for receive sites that appear to be beyond the reasonable coverage ability of an educational institution. We believe that such requests are an abuse of our processes, designed to increase artificially the service area of the wireless cable lessee. We also believe that the elimination of this practice would significantly increase the efficiency of our processing of applications, thereby hastening service to the public.

24. Given an ITFS facility's height, power, frequency, and mode of transmission, our experience suggests that it is generally unlikely that an educational institution would reasonably serve a receive site that is more than 35 miles from the transmitter. Thus, absent a showing of unique circumstances, we propose to provide protection only for those receive sites 35 miles or less from the transmitter. Further, we propose that an applicant not be able to claim eligibility for a license by use of any receive site more than 35 miles from the transmitter. Applicants are invited to address this proposal.

25. *Major Modifications.* We classify applications to modify an existing ITFS facility or to amend a pending application as either major or minor, attaching different procedural rules to

[4] A licensee utilizing offset operates at a frequency either slightly higher or slightly lower than the standard frequency for that channel. Specifically, such a licensee operates its facilities with a carrier frequency ±10 kHz from the nominal carrier frequency.

[5] Sections 74.903 (d) and (e) of the Commission's Rules.

each.[6] We generally define major modifications as those that significantly impact an existing or proposed facility. Pursuant to the window proposal, the Commission will accept major amendments and applications for major modifications only during an open window period.

26. However, the current definition of minor changes, we believe, does not realistically take into account the impact that the proposed change would have on the facility in question, nearby facilities, or proposed facilities.[7] Applicants frequently submit applications for changes that would substantially affect the operations of such facilities, yet we now treat many of these changes as minor. Accordingly, we propose to reclassify certain changes as major. Consequently, we would accept amendments and applications for such changes only during a window filing period. We believe that this action would more accurately reflect the impact of a proposed change.

27. We have had an informal policy of considering proposals to relocate a facility's transmitter site by 10 miles or more as a major change. We now propose to modify our rules to make this policy formal. In addition, we propose to reclassify as a major change any application or amendment involving: (1) Any polarization change; (2) the addition of any receive site that would experience interference from any licensee or applicant on file prior to the submission of the amendment; (3) an increase in the EIRP in any direction by more than 1.5 dB;[8] (4) an increase of 25 feet or more in the transmitting antenna height; or (5) any change that would cause interference to any previously proposed application or existing facility. We note that by limiting the opportunity to file the above types of applications, adoption of the proposal would appear to somewhat diminish a licensee or applicant's flexibility to respond to changing needs and circumstances. At the same time, however, we believe that adoption of the proposed rules would make our classification of changes more consistent. By doing so, we believe, we would enhance the efficiency of the window filing system. Thus, it appears that the benefits gained from the rule would outweigh the costs. We seek comment on our analysis. Finally, we propose to exempt from the new rule any change that resolves mutually exclusive applications without creating new frequency conflicts.

28. *FAA Authorization.* Pursuant to Section 17.4 of the Commission's Rules, we do not grant or modify a license until the Federal Aviation Administration (FAA) has determined that the proposed transmitter site will not pose a hazard to air navigation. Applicants now state in their applications that they have applied for FAA clearance. However, once that clearance is obtained, applicants are not required to inform the Commission. To hasten the time that our staff learns of the FAA's hazard determinations, we propose to require the applicant to inform the Commission of the FAA's determination. We believe that this would accelerate service to the public. Commenters are invited to address the costs and benefits of adopting the proposal.

29. *Interference Studies.* Applicants often claim that their proposed facilities will cause no harmful interference, based either on their being beyond the radio horizon or on their signal being blocked by nearby terrain. However, such applicants frequently provide no terrain profiles to support such claims. Furthermore, whenever an applicant files a proposal claiming that no interference will be cause due to the signal's being blocked by the surrounding terrain, a question almost always arises as to the amount of signal that will be blocked. Many applicants conclude that any terrain obstruction, regardless of degree, completely blocks the signal. Our experience has demonstrated that this conclusion is not necessarily true.

30. Accordingly, we propose to amend the rules to require the submission of terrain profiles and a quantitative analysis of any additional signal loss calculated by using the Longley-Rice propagation model, Version 1.2.2, in the point-to-point mode. Adoption of the proposal would make mandatory a technical analysis that many applicants already use. The Longley-Rice model was derived from NBS Technical Note 101 and updated in 1982 by G. A. Hufford. Version 1.2.2 incorporated modifications described in a memorandum by Hufford in 1985. Terrain elevations used as input to the model should be from the United States Geological Survey three-second or 30-second digitized terrain databases. Further, we propose to disregard any claim of signal blockage caused by artificial structures. Such claims usually make impossible any quantitative analysis. Accordingly, we seek comment on these proposals.

31. *Reasonable Assurance of Receive Sites.* We have received a number of applications in which some of the schools listed as receive sites have subsequently informed us that they had, in fact, not agreed to participate in the proposed ITFS system. This practice forces the Commission to allocate its scarce resources processing an inaccurate application, then reprocessing it (and related mutually exclusive applications) when the information is corrected. Such duplicative processing significantly delays the final disposition of all ITFS applications. Therefore, we seek comment on how an applicant should demonstrate reasonable assurance of a receive site's legitimacy. We propose requiring a letter of assurance from the applicant, listing the receive sites' contact people, titles, and telephone numbers. With regard to noncompliance with any new requirement, should we automatically decline to consider any proposed receive site without adequate assurance?

32. *Accreditation of Applicants* Currently, pursuant to Section 74.932 of the Commission's Rules, an applicant to construct new facilities must report whether it, its members, or the receive sites it serves are accredited. The application form does not require the educator to specify whether it is the applicant or its members that are accredited. This ambiguity has opened the door to abuse of our procedures. Consequently, we have received applications in which the applicant is an accredited organization, but it proposes receive sites at non-accredited institutions. Applicants often evade the intent of the rule by having only one receive site out of many accredited, thereby defeating the fundamental purpose of the service, which is to serve the educational needs of accredited institutions.

33. Thus, we propose to require applicants to state whether and by whom each school listed as a receive site in accredited. We also propose not to consider in a tie-breaking proceeding a receive site that lacks this accompanying information, or that is unaccredited, as that would allow it unwarranted comparative consideration. Commenters are invited to address other ways we should utilize the additional information. Should we require a majority of receive sites to be accredited in order for the application to be grantable? Should we deny interference protection for any unaccredited receive site? We invite commenters to address any or all of the above proposals. However, we do not wish to limit the range of comments in this area. Thus,

[6] Section 74.911 of the Commission's Rules, 47 CFR 74.911.

[7] Section 74.911 classifies a small number of specified changes as major and defines all other changes as minor.

[8] Thus, TPO would no longer be the deciding factor in determining whether a change is major.

we welcome other proposals besides those discussed above that would safeguard both the efficiency of a window filing system and the integrity of our processes.

Freeze of New Applications

34. In the *Notice* we announced that, for a period of time, we would not accept applications for new ITFS facilities or for major changes to existing facilities. We expressed our concern that potential applicants would inundate the Commission with applications while the old cut-off rule was still in effect, thereby defeating the purpose of the proposed rulemaking. However, we stated that we would continue to accept (but not process) applications in which the applicant relies on NTIA for construction funds. We have also continued to accept major change proposals where they are filed in the same market to accommodate settlement agreements among applicants that have previously achieved cut-off status and where the settlement resolves mutually exclusive applications.

35. Upon publication of this *Order and Further Notice* in the **Federal Register,** we shall instruct the staff to begin accepting applications for major changes to existing facilities, and any mutually exclusive applications thereto. Such applications will be processed under the existing A/B cut-off rules. We believe that this will ease the burden that the freeze has caused to educational institutions that seek to alter their existing facilities. Licensees and those filing competing applications may file such applications until the effective date of any window filing rules. We note that this *Order and Further Notice* contemplates modifying our definition of a major change. For the purposes of modifying the freeze, we shall use the existing definition of the term. Any pending major modification application not cut off as of the adoption of this *Order and Further Notice* will be considered in conjunction with the newly submitted applications.

Administrative Matters

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. 1.415 and 1.419, interested parties may file comments on or before August 29, 1994, and reply comments on or before September 28, 1994. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 74

Instructional Television Fixed Service, Television broadcasting.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 94–16880 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 94–57; Notice 01]

RIN 2127–AF33

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

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

ACTION: Notice of Proposed rulemaking.

SUMMARY: This notice proposes to amend Standard No. 210 to require the installation of anchorages for either a Type 1 or a Type 2 seat belt assembly at any seating position for which Standard No. 208 requires the installation of a Type 1 or a Type 2 seat belt. Anchorages required by Standard No. 210 must meet the strength, location and other performance requirements of that standard. Currently, S4.1.2 of Standard No. 210 requires the installation of an anchorage for a Type 1 or a Type 2 seat belt assembly for all designated seating positions, except positions already required by section 4.1.1 of Standard No. 210 to have an anchorage for a Type 2 seat belt assembly and except passenger seats in buses. The practical effect of Standard No. 210's not requiring anchorages for the bus passenger seats is that the anchorages for the Type 1 seat belt assemblies required at passenger seats in small buses are not currently required to comply with the performance requirements of that Standard. This notice will correct this oversight.

DATES: *Comment date:* Comments must be received by September 12, 1994.

Proposed effective date: If adopted, the proposed amendments would become effective 30 days following publication of the final rule.

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

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–4916.

SUPPLEMENTARY INFORMATION: On November 2, 1989, NHTSA published a final rule amending Standard No. 208, *Occupant Crash Protection,* to require the installation of Type 2 (lap/shoulder) seat belts at all forward-facing rear outboard seating positions in all vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, other than school buses (54 FR 46257). The final rule also required Type 2 seat belts at all front outboard seating positions in small buses and Type 1 (lap) seat belts at all other seating positions in small buses.

In the preamble to the final rule, effective September 1, 1991, the agency stated that it did not need to amend Standard No. 210, *Seat Belt Assembly Anchorages,* to require the installation of anchorages for Type 2 seat belt assemblies at the affected seating positions because S4.1.1 already required the installation of anchorages for a Type 2 seat belt assembly whenever Standard No. 208 required the installation of a Type 2 seat belt.

In making this statement, the agency overlooked the exceptions in S4.1.2 of Standard No. 210. That section requires the installation of anchorages for a Type 1 or a Type 2 seat belt assembly for all designated seating positions, except positions required to have an anchorage for a Type 2 seat belt assembly and except for passenger seats in buses. Thus, the anchorages for the Type 1 seat belt assemblies required at passenger seats in small buses by the November 2, 1989 final rule are not currently required to comply with Standard No. 210. To correct this oversight, this notice proposes to amend Standard No. 210 to require the installation of anchorages for either a Type 1 or a Type 2 seat belt assembly at any seating position for which Standard No. 208 requires the installation of a Type 1 or a Type 2 seat belt.

Since NHTSA believes that the anchorages currently being installed by the manufacturers comply with the requirements of Standard No. 210, NHTSA is proposing that if this proposal is adopted as a final rule, it would become effective 30 days after publication.

The agency proposes to simplify the language of S4.1 and to reword it to eliminate the possibility of similar oversights in the future. The proposed regulatory language in this notice combines the requirements of current S4.1.1 and S4.1.2 into one section. Further, it makes clear that anchorages for either a Type 1 or a Type 2 seat belt assembly are required whenever Standard No. 208 requires either a Type 1 or a Type 2 seat belt assembly. This change will eliminate the need for further amendment of Standard No. 210 if the seat belt requirements of Standard No. 208 are amended in the future.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures and determined that the action is not "significant" under those policies and procedures. While these anchorages are not currently required to comply with Standard No. 210, NHTSA believes that manufacturers do design these anchorages to comply with these requirements. Thus, NHTSA does not expect any impact from this proposed rule. Therefore, preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate any impact from this proposed rule.

Paperwork Reduction Act

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

National Environmental Policy Act

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

Executive Order 12612 (Federalism)

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

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. This section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.210 [Amended]

2. Section 571.210 would be amended by revising S4.1.1, removing existing S4.1.2, redesignating existing S4.1.3(a) as S4.1.2(a) and redesignating existing S4.1.3(b) as S4.1.2(b) and revising it, to read as follows:

§ 571.210 Standard No. 210; Seat belt assembly anchorages.

* * * * *

S4.1.1 Seat belt anchorages for a Type 1 or a Type 2 seat belt assembly shall be installed for each designated seating position for which a Type 1 or a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208). Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208).

S4.1.2(a) * * *

(b) The requirement in S4.1.1 of this standard that seat belt anchorages for a Type 1 or a Type 2 seat belt assembly shall be installed for certain designated seating positions does not apply to any such seating positions that are equipped

with a seat belt assembly that meets the frontal crash protection requirements of S5.1 of Standard No. 208 (49 CFR 571.208).

* * * * *

Issued on July 7, 1994.

Patricia P. Breslin,

Acting Associate Administrator for Rulemaking.

[FR Doc. 94–16912 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

[Docket No. 85–07; Notice 9]

RIN 2127–AF23

Federal Motor Vehicle Safety Standards; Air Brake Systems Control Line Pressure Balance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In response to a petition for rulemaking submitted by Sealco Air Controls, Inc., this notice proposes to amend the control line pressure differential requirements in Standard No. 121, *Air Brake Systems,* for converter dollies and trailers designed to tow another vehicle equipped with air brakes. The agency has tentatively concluded that the proposed amendments would improve the braking compatibility of such vehicles by allowing the use of a relay valve known as a spool-type low opening valve. The agency does not anticipate any adverse safety consequences resulting from amending the pressure differential requirements.

DATES: *Comments.* Comments must be received on or before September 12, 1994.

Proposed effective date. The proposed amendments in this notice would become effective 30 days after publication of a final rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Tinto, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (202–366–6761).

SUPPLEMENTARY INFORMATION: Standard No. 121, *Air Brake Systems,* establishes performance and equipment requirements for braking systems on vehicles equipped with air brakes, including requirements for pneumatic timing. For purposes of compliance testing, the pneumatic timing tests for trailers, including trailer converter dollies, are conducted with the trailer connected to a test rig rather than an actual tractor. The test rig delivers air to, and releases air from, the trailer during the timing test. The timing tests for vehicles designed to tow trailers are conducted with a 50 cubic inch reservoir connected to rear control line coupling. This reservoir represents the control line volume of the control trailer used in the compliance testing.

On August 21, 1992, NHTSA published a final rule amending the pneumatic timing requirements of Standard No. 121 with respect to the control signal pressure balance for tractor trailer combinations. (57 FR 37902). The agency added S5.3.5 which specifies a new test procedure for determining the control line pressure differential in converter dollies and trailers designed to tow another trailer equipped with air brakes. Specifically, the rule requires that the pressure differential between the control line input coupling and a 50 cubic inch test reservoir shall not exceed 1 psi at all input pressures between 5 psi and 20 psi and 2 psi at all input pressures greater than 20 psi. Agency research indicates that input pressures below 20 psi represent routine braking applications, input pressures between 20 psi and 40 psi represent moderate to heavy braking applications, and input pressures above 40 psi represent severe braking applications. As explained below, NHTSA is proposing to modify the limit above 40 psi to allow a 5 percent differential (which at higher pressures exceeds the current limit of 2 psi) based on the Society of Automotive Engineer's (SAE's) Recommended Practice SAE J1505, *Brake Force Distribution Test Code Commercial Vehicles.*

The agency explained that the amendment is designed to ensure that the control signal "passes" through a towing trailer or dolly without being altered along the way. Since the control signal passes through unaltered, each vehicle in a combination unit receives the same brake control signal. This serves to increase the braking compatibility of combination vehicles since each vehicle in a combination has comparable braking performance.

Sealco Petition

On June 18, 1993, Sealco Air Controls, Inc. (Sealco), a valve manufacturer, submitted to NHTSA a rulemaking petition to amend Standard No. 121 with respect to the control line pressure differential requirements in S5.3.5. Specifically, it requested that NHTSA amend these requirements to permit the manufacture of its low opening valves that serve to adjust air flow in control lines. These valves are used as control line relay valves and service line relay valves in trailers and converter dollies. The petitioner stated that unlike other relay valves that use a common poppet,[1] the low opening valves have a balanced spool technology[2] that incorporates a low pressure at which the valve initially opens (i.e., crack pressure) of 1.5 psi. According to Sealco, the spool technology enables the valve to track closer between the input control air pressure and the output delivered air pressure. As a result, it claimed that hysteresis[3] is not so prevalent with low operating valves as with the high crack pressure poppet design valves.

Hysteresis in a valve may cause the valve not to track (i.e., follow closely) the control line pressure properly, which may cause the brakes in the trailer to lag behind the control signal. For example, when the driver applies the brakes, the valve's hysteresis may not allow the same pressure to be applied to the trailer brakes, which will cause less braking in the trailer and cause the trailer to "push" the tractor. Similarly, when the driver releases the brake, the hysteresis in the valve may not allow the brakes in the trailer to be released quickly enough and will still have the brakes applied while the driver is trying to accelerate, causing the kingpin to jerk on the inside of the fifth wheel. On more extreme conditions where the driver goes through several fast brake applications and releases in rapid succession, the jerking and pushing of the trailer or trailers could be difficult to control.

Sealco stated that the use of low operating valves would further NHTSA's goal of ensuring balanced braking in combination vehicles.

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[1] A rising and falling valve consisting of a disc at the end of a vertically set stem.

[2] A valve whose primary means of diverting pressure or flow is through movement of a cylindrical valve mechanism along its axis.

[3] The time lag in a system in reacting to changes in the forces affecting it. With respect to braking, the relay valve's output (apply pressure) lags more than a few psi behind ascending control line (treadle) pressure, and stays more than one or two psi above descending control line pressure. Complications may arise when a second brake application is made before the first one is fully released.

However, the petitioner claimed that while its valve meets the amendment's application requirements, it does not meet the provision requiring release at high pressure ranges, given the valve's mechanics. To comply with the amendment, Sealco has drilled a hole in the valves' piston, thereby allowing pressure to bleed to the supply side. This action prevents the valves from cracking open when tested according to S5.3.5. Sealco believes that this modification to allow compliance with the amendment has reduced the valves' effectiveness. Sealco also criticized the test procedure which it believed did not simulate actual braking conditions. It stated that slow and fast ascending and descending control line pressures should be used to check the valves' ability to respond appropriately.

Agency's Decision To Issue Proposal

After reviewing the petition, NHTSA has decided to propose an amendment to Standard No. 121 to permit the use of low operating valves. Specifically, the agency is proposing to amend S5.3.5 to account for input pressures over 40 psi. Under the proposal, the pressure differential would not be permitted to exceed 2 psi at any input pressure between 20 psi and 40 psi and it would not be permitted to exceed 5 percent at any pressure over 40 psi. In other words, the pressure differential requirements would remain the same, except for applications resulting in pressures over 40 psi. The agency requests comments about whether the modification to pressure levels over 40 psi is appropriate.

NHTSA is proposing the value of 40 psi based on SAE J1505, *Brake Force Distribution Test Code Commercial Vehicles*. The agency has tentatively determined that the safety problem addressed by the requirement in S5.3.5, i.e., slow heat build up and brake fade caused by long gradual down hill runs at relatively low air pressure, is not a problem for severe brake applications over 40 psi. In formulating this proposal, NHTSA contacted all the major valve manufacturers. Other than Sealco, no other valve manufacturer stated that they had to drill holes in the valve or otherwise modify the valve in a way that might adversely affect their real-world dynamic braking performance in order to comply with the test in S5.3.5. Aside from Sealco, the valve manufacturers believed that the existing test was a realistic, reasonable assessment of low pressure differential performance.

NHTSA has tentatively determined that this amendment would facilitate the use of spool valve technology, while not being detrimental to safety. The agency's primary concern in these rulemakings addressing control line pressure differentials is brake performance in the low end of the air pressure range since the vast majority of stopping occurs there. Specifically, in the August 1992 rule, the agency sought to improve low end brake performance with respect to slow heat build up and brake fading brought about by relatively low brake applications during long gradual downhill descents.

After further review, the agency now believes that the current requirement may unnecessarily extend the 2 psi requirement into the higher pressure ranges where it is not necessary for safety. As noted above, the requirement is designed to prevent brake fade during relatively low brake applications below 20 psi and is not applicable to hard brake applications, i.e., those exceeding 40 psi. Accordingly, the agency has tentatively decided to modify the differential requirements at levels over 40 psi. Notwithstanding the agency's tentative conclusion, the agency request comments about whether this amendment poses any risk of adverse safety consequences.

However, NHTSA disagrees with Sealco's statements that the test procedure in S5.3.5 does not simulate actual braking conditions. The agency notes that this test procedure was based on the agency's own testing and extensive test data and recommendations by trailer manufacturers in response to previous agency proposals. Specifically, the agency disagrees with Sealco's statement that "Slow and fast ascending and descending control line pressures should be used to check CLV performance." As discussed in earlier notices, NHTSA sought pressure rises and decays that were neither too fast nor too slow. As trailer manufacturers and other commenters to the earlier proposal stated, if the pressure rise were too slow, test personnel would waste time waiting for the event to occur, and if the pressure rise were too rapid, pressure differentials could not be read quickly enough. In addition, pressure surges from a fast rate would likely result in a loss of normal valve hysteresis and subsequent errors in crack pressure readings. Accordingly, the agency believes that the test accurately evaluates real-world dynamic braking without creating any significant negative safety effects.

Rulemaking Analyses and Notices

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

This proposal was not reviewed under E.O. 12866. NHTSA has analyzed this proposal and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule, if adopted, would have no mandatory effects. Instead, the proposal would permit spool valve technology. Therefore, this rulemaking would not have any cost impacts.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities. Vehicle and brake manufacturers typically would not qualify as small entities. This amendment would affect small businesses, small organizations, and small governmental units to the extent that these entities purchase vehicles. However, this amendment would not have any cost impact on vehicles. For these reasons, vehicle manufacturers, small businesses, small organizations, and small governmental units which purchase motor vehicles would not be significantly affected by the proposed requirements. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

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 rule would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws would be affected.

4. National Environmental Policy Act

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

5. Civil Justice Reform

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30111),

whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (49 U.S.C. 30161) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency proposes to amend 49 CFR Part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. In § 571.121, S5.3.5 introductory text and S5.3.5(a) would be revised to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.3. Control signal pressure differential—converter dollies and trailers designed to tow another vehicle equipped with air brakes.

(a) For a trailer designed to tow another vehicle equipped with air brakes, the pressure differential between the control line input coupling and a 50 cubic inch test reservoir attached to the control line output coupling shall not exceed the values specified in S5.3.5(a) (1) and (2) under the conditions specified in S5.3.5(b) (1) through (4)—

(1) 1 p.s.i. at all input pressures equal to or greater than 20 p.s.i., but not greater than 20 p.s.i.; and

(2) 2 p.s.i. at all input pressures from 20 p.s.i. to 40 p.s.i.; and

(3) not more than a 5 percent differential at any input pressures above 40 p.s.i.

* * * * *

Issued on July 6, 1994.

Patricia P. Breslin,

Acting Associate Administrator for Rulemaking.

[FR Doc. 94–16913 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter II

[Docket No. 940558–4158; I.D. 052394B]

West Coast Salmon Fisheries; Disaster Relief

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

ACTION: Advance notice of proposed rulemaking; modification of comment period.

SUMMARY: NMFS is reducing the comment period on the advance notice of proposed rulemaking regarding appropriate limitations, terms, and conditions the agency should use in providing proposed assistance to person engaged in commercial fisheries for uninsured losses resulting from the west coast salmon fisheries resource disaster.

DATES: Comments must be received by July 15, 1994.

ADDRESSES: Comments should be sent to Bruce Morehead, Office of Trade and Industry Services, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Bruce Morehead, 301/713–2358.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking, requesting public comment over a 60-day period, was published in the **Federal Register** on June 3, 1994, at 59 FR 28838. In addition to the comment period on the advance notice of proposed rulemaking, NOAA/NMFS held a series of meetings with the affected public and received numerous comments that it is crucial to expedite the development and publication of the proposed and final rule for the disaster assistance program. NMFS agrees with the need to act quickly and believes that the public will not be disadvantaged by the shortened comment period because of the public meetings and the fact that there will be additional opportunity to comment on the proposed rule.

Dated: July 7, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94–16874 Filed 7–7–94; 4:27 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC61

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Jaguar in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month

finding on a petition to extend endangered status to the jaguar (*Panthera onca*) throughout its range under the authority of the Endangered Species Act of 1973, as amended (Act). The Service finds that the petitioned action is warranted. The jaguar is currently listed as endangered from Mexico southward to Central and South America. In the United States the primary threat to this species is from shooting. Loss and modification of the jaguar's habitat may have also contributed to its decline. While no breeding population of the jaguar is known to survive in the U.S., the species is present in northern Mexico, and wandering individuals occasionally cross the border. A minimum of 64 jaguars have been killed in Arizona since 1900. The most recent was in 1986. This proposal, if made final, will extend Federal protection provided by the Act for such dispersing animals. Critical habitat is not being proposed. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 12, 1994. Public hearing requests must be received by August 29, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the State Supervisor, Arizona Ecological Services State Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, Suite 6, Phoenix, Arizona 85019. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sam Spiller, State Supervisor, at the above address, or telephone 602/379–4720.

SUPPLEMENTARY INFORMATION:

Background

The jaguar (*Panthera onca*) is the largest species of cat native to the Western Hemisphere. Jaguars are muscular cats with relatively short, massive limbs and a deep-chested body. They are cinnamon-buff in color with many black spots. Their range in North America includes Mexico and portions of the southwestern United States (Hall 1981). A number of records of jaguars are known for Arizona, New Mexico, and Texas. Additional reports exist for California and Louisiana. Records of the jaguar in Arizona and New Mexico have been attributed to the subspecies *Panthera onca arizonensis*. The type specimen of this subspecies was collected in Navajo County, Arizona, in 1924 (Goldman 1932). Nelson and Goldman (1933) described the distribution of this subspecies as the mountainous parts of eastern Arizona north to the Grand Canyon, the southern half of western New Mexico, northeastern Sonora, and, formerly, southeastern California. The records for Texas have been attributed to *P. o. veraecrucis*. Nelson and Goldman (1933) described the distribution of this subspecies as the Gulf slope of eastern and southeastern Mexico from the coast region of Tabasco, north through Vera Cruz and Tamaulipas, to central Texas.

Swank and Teer (1989) indicated the historical range of the jaguar included portions of the states of Arizona, New Mexico, and Texas. These authors consider the current range to occur from central Mexico through Central America and into South America as far as northern Argentina. They stated that the United States no longer contains established breeding populations, which probably disappeared from the United States in the 1960s. They also maintained that the jaguar prefers a warm tropical climate, is usually associated with water, and is only rarely found in extensive arid areas.

Brown (1983) presented an analysis suggesting there was a resident breeding population of jaguars in the southwestern United States at least into the 20th century. The Service (U.S. Fish and Wildlife Service 1990) recognized that the jaguar continues to occur in the American Southwest as an occasional wanderer from Mexico.

Previous Federal Action

The jaguar is listed as endangered from the U.S. and Mexico border southward to include Central and South America (37 FR 6476, March 30, 1972; 50 CFR 17 11, July 15, 1991). The species was originally listed as endangered in accordance with the Endangered Species Conservation Act of 1969 (ESCA). Pursuant to the ESCA, two separate lists of endangered wildlife were maintained, one for foreign species and one for species native to the United States. The jaguar appeared only on the List of Endangered Foreign Wildlife. In 1973, the Endangered Species Act superseded the ESCA. The foreign and native lists were replaced by a single "List of Endangered and Threatened Wildlife," which was first published in the Federal Register on September 26, 1975 (40 FR 44412–44429).

On July 25, 1979, the Service published a notice (44 FR 43705) stating that, through an oversight in the listing of the jaguar and six other endangered species, the United States populations of these species were not protected by the Act. The notice asserted that it was always the intent of the Service that all populations of the seven species deserved to be listed as endangered, whether they occurred in the United States or in foreign countries. Therefore, the notice stated that the Service intended to take action as quickly as possible to propose inclusion of the United States portions of the species' range for listing.

On July 25, 1980, the Service published a proposed rule (45 FR 49844–49847) to list the jaguar and four of the other species referred to above in the United States. The proposal for listing the jaguar and three other species was withdrawn on September 17, 1982 (47 FR 41145). The notice issued by the Service stated that the Act mandated withdrawal of proposed rules to list species that have not been finalized within 2 years of the proposal.

On August 3, 1992, the Service received a petition from the instructor and students of the American Southwest Sierra Institute and Life Net to list the jaguar (*Panthera onca*) as endangered in the United States. The petition was dated July 26, 1992. Two subspecies of jaguar (*P. o. arizonensis* and *P. o. veraecrucis*) are recognized as occurring in the United States. Therefore both subspecies are encompassed by this proposed rule to revise the listed range of *Panthera onca*.

On April 13, 1993 (58 FR 19216–19220), the Service published a finding that the petition presented substantial information indicating that the petitioned action may be warranted and requested public comments and biological data on the status of the jaguar. Section 4(b)(3) of the Act requires the Secretary of the Interior to reach a final decision on any petition accepted for review within 12 months of its receipt. This proposal constitutes the final finding on the petitioned action.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal "List of Endangered and Threatened Wildlife and Plants." A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the jaguar (*Panthera onca*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Within the United States, jaguars have been recorded most commonly from Arizona, but there are also records from California, New Mexico, and Texas, and reports from Louisiana. Currently there is no known resident population of jaguars in the United States, though they still occur in northern Mexico.

Arizona

Goldman (1932) believed that the jaguar was a regular, but not abundant, resident in southeastern Arizona. Hoffmeister (1986) considered the jaguar an uncommon resident species in Arizona. He concluded that the reports of jaguars between 1885 and 1965 indicated that a small but resident population once occurred in southeastern Arizona. Brown (1983) suggested that the jaguar in Arizona ranged widely throughout a variety of habitats from Sonoran desertscrub upward through subalpine conifer forest. Most of the records were from Madrean evergreen-woodland, shrub-invaded semidesert grassland, and along rivers.

The most recent records of jaguars in the United States are from Arizona. In 1971, a jaguar was taken east of Nogales and, in 1986, one was taken from the Dos Cabezas Mountains. The latter individual reportedly had been in the area for about a year before it was killed (Ronald M. Nowak, U.S. Fish and Wildlife Service, pers. comm., 1992).

The Arizona Game and Fish Department (AGFD) (1988) cited two recent reports of jaguars in Arizona. The individuals were considered to be transients from Mexico. One of the reports was from 1987 from an undisclosed location. The other report was from 1988, when tracks were observed for several days prior to the treeing of a jaguar by hounds in the Altar Valley, Pima County. An unconfirmed report of a jaguar at the Coronado National Monument was made in 1991 (Ed Lopez, Coronado National Monument, pers. comm., 1992).

Finally, there is a report of a jaguar sighted in December, 1993, on the Buenos Aires National Wildlife Refuge in the Baboquivari Mountains of southern Arizona. Refuge personnel believe that the chances are "very good" that this was a reliable sighting.

California

Merriam (1919) summarized several accounts of jaguars, from various locations in California, which were obtained from documents published between 1814 and 1860. Strong (1926) provided evidence that the Cahuilla Indians of the Coachella Valley and San Jacinto and Santa Rosa Mountains of southern California were familiar with the jaguar. Nowak (1975) mentioned reports of jaguars in the Tehachapi Mountains from 1855, and the last known individual from California was killed near Palm Springs in 1860 (Strong 1926). Nowak speculated that the animal may have been a breeding individual.

Louisiana

Nowak (1973) speculated on the occurrence of jaguars east of Texas. Several early accounts mentioned jaguars and tigers. He cited Baird (1859) who believed that specimens had been taken from Louisiana. Nowak also discussed the killing of what was probably a jaguar near New River, Ascension Parish, Louisiana in 1886. Lowery (1974) mentioned this killing and included the jaguar in the fauna of Louisiana on a provisional basis.

New Mexico

Barber (1902) speculated that jaguars made their way into the Mogollon Mountains of New Mexico by ascending the Gila River. Bailey (1931) suggested that jaguars seemed to be native in southern New Mexico, but were regarded as wanderers from across the United States-Mexico border. He listed nine reports of jaguars in New Mexico from 1855 to 1905. Brown (1983) stated that the last record from New Mexico was from 1905. Nowak (1975) mentioned reports of jaguars along the Rio Grande from as late as 1922. Halloran (1946) reported that dogs "jumped" a jaguar in the San Andres Mountains in 1937. Findley *et al.* (1975) stated that jaguars once occurred as far north as northern New Mexico.

Texas

Bailey (1905) stated that the jaguar was once reported as common in southern and eastern Texas but had become extremely rare. Nowak (1975) believed that an established population once occurred in the dense thickets along the lower Nueces River and northeast to the Guadalupe River. He suggested that jaguars probably continued to wander from Mexico into the brush country of the southernmost part of the State. However, brush clearing has possibly reduced chances for reestablishment of the species in Texas.

Mexico

Leopold (1959) believed the distribution of the jaguar in Mexico included the tropical forests of southeastern Mexico, the coastal plains to the mouth of the Rio Grande on the Gulf of Mexico side, and the Sonoran foothills of the Sierra Madre Occidental on the Pacific side. The highest densities of jaguars were found along heavily forested flatlands and foothills of southern Sinaloa, the swamps of coastal Nayarit, the remaining uncut forests along the Gulf coast as far east as central Campeche, and the great rain forests of northern Chiapas. He indicated that occasional wandering individuals were found far from these areas; some followed tropical gorges far into mountains. He believed that jaguars followed big rivers on their northern movements; they traveled up the Brazos, Pecos, Rio Grande, Gila, and Colorado Rivers. He mentioned a 1955 record of a jaguar near the southern tip of the San Pedro Martir range, Baja California. Leopold asserted that this individual was 500 miles from regularly occupied jaguar habitat.

Swank and Teer (1989) described the distribution of the jaguar in North America as a broad belt from central Mexico to Central America. They found that the most northerly established populations, as reported by Mexican officials, were in southern Sinaloa and southern Tamaulipas.

Brown (1991) did not believe that the jaguar was extirpated from northern Mexico. Although jaguars were considered relatively common in Sonora in the 1930s and 1940s, he cited the most northern officially reported population as about 800 miles south of the United States-Mexico border. However, Brown suggested that there may be more jaguars in Sonora than are officially reported. He mentioned reports of two jaguars that were killed in central Sonora around 1970. He also discussed assertions by the local Indians that both male and female jaguars still occurred in the Sierra Bacatete. Brown speculated that if a reproducing population of jaguars is still present in these mountains, it may be the source of individuals that travel northward through the Sierra Libre and Sierra Madera until they reach Arizona. Nowak (pers. comm., 1992) reiterated that as late as 1987 the species was still considered common in the Sierra Bacatete near Guaymas, Sonora, which is about 200 miles south of Arizona.

Brown (1989) reported that biologists from Mexico have stated that at least two jaguars have been killed in Chihuahua. In 1987, Nowak (pers.

comm., 1992) claimed that jaguars were still regularly present along the Soto la Marina River of central Tamaulipas, which is about 150 miles from the southern tip of Texas. He also hypothesized that jaguars may be entering Arizona from Mexico as a result of habitat destruction in Sonora. Large stretches of natural forest have been cleared in central Tamaulipas. In Arizona, by contrast, jaguar prey populations have increased, and large tracts of brush and canyon woodland are still available to provide cover for jaguars. Listing will provide protection for individuals, which may lead to recolonization of currently unoccupied habitat and reestablishment of the species in portions of its historical Arizona range in the United States.

Clearing of habitat, destruction of riparian areas, and fragmentation or blocking of corridors may prevent jaguars from recolonizing previously inhabited areas. Although there is currently no known resident population of jaguars in the United States, wanderers from Mexico may cross the border and take up residency in available habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

In Arizona, the jaguar's gradual decline was concurrent with predator control associated with the settlement of land and the development of the cattle industry (Brown 1983, Service 1990). Lange (1960) summarized the jaguar records from Arizona known up to that time. Between 1885 and 1959, the reports consisted of 45 jaguars killed, 6 sighted, and 2 recorded by sign.

Brown (1991) related that the accumulation of all known records indicated a minimum of 64 jaguars were killed in Arizona after 1900. When plotted at ten-year intervals, records of jaguars reported killed in Arizona and New Mexico between 1900 and 1980 demonstrated "a decline characteristic of an over-exploited resident population" (Brown 1983). Brown (1983) argued that if the jaguars killed during this period originated in Mexico, the numbers of killings should not suggest a pattern but should rather be irregular and erratic.

Bailey (1905) listed seven reports of jaguars killed in Texas between 1853 and 1903. Schmidly (1983) reported another jaguar shot in Mills County in 1904. Taylor (1947) mentioned a jaguar killed near Lyford, Willacy County, in 1912. Brown (1991) indicated jaguars were common in Texas until 1870. The last reports from Texas were of individuals killed in 1946 (San Benito, Cameron County) and 1948 (Kleburg County). Nowak (1975) identified killing of jaguars for commercial sale of their furs as a factor in the extermination of a substantial resident population in central Texas during the late 19th century.

Although the demand for jaguar pelts has diminished, it still exists along with the business of hunting jaguars. In 1992, AGFD personnel infiltrated a ring of wildlife profiteers. That operation resulted in the March, 1993, seizure of three jaguar specimens, one of which was allegedly taken from the Dos Cabezas Mountains in Arizona in 1986. Two of the specimens had been covertly purchased from the suspects. During the investigation, several ties to Mexico jaguar hunting were discovered. Hounds bred and trained in the United States were sold to Mexican nationals for the purpose of hunting jaguars. Also, Mexican nationals prosecuted by the Service in 1989 for illegally importing jaguar pelts into the United States were continuing the practice of providing jaguar hunts in Mexico (Terry B. Johnson, Arizona Game and Fish Department, *in litt.*, 1993).

C. Disease or Predation

The Service is unaware of any known diseases or predators that threaten the jaguar at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

State Regulations

Jaguars are listed as endangered by the State of Arizona. In general, violations of Arizona Game and Fish Laws (AGFD 1991) are class 2 misdemeanors. The Arizona Game and Fish Commission may, through civil action, seek to recover a minimum of $750 for each endangered species unlawfully taken, wounded or killed. Special permits may be issued for taking depredating wildlife. The AGFD offered a reward of $4,000 for information leading to a conviction for the reported killing of a jaguar in 1986. However, a conviction has yet to be obtained for that incident.

Under the California Code of Regulations, it is prohibited to import, transport, or possess jaguars. In Louisiana the jaguar receives no official protection from the State (Fred Kimmel, Louisiana Department of Wildlife and Fisheries, pers. comm., 1993). The jaguar is not listed as an endangered species, a game animal, or a fur-bearing animal by the State of New Mexico; it receives no official protection from New Mexico (Sartor O. Williams III, New Mexico Department of Game and Fish, *in litt.*, 1992).

The jaguar is listed as endangered by the State of Texas (Texas Parks and Wildlife Department 1987). It is unlawful to take, possess, transport, export, process, sell or offer for sale, or ship jaguars in Texas. However, some of the above actions may be allowed for zoological gardens, and scientific, commercial, and propagation purposes with the proper permits. A first violation of the regulations or a permit is a Texas Parks and Wildlife Code C misdemeanor, which carries a fine of $25 to $500 (Capt. Harold Oates, Texas Parks and Wildlife, pers. comm., 1994).

In summary, although some States provide limited protection to the jaguar, illegal taking continues to occur. Listing the species under the Act would result in protective measures beyond those provided by the States.

Federal Protection

The jaguar is currently listed under the Act as an endangered species only in Mexico and southward to include Central and South America. Jaguars that may occur in, or immigrate into, the United States are not currently protected by the Act. The jaguar is on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). However, that listing does not prohibit the act of taking, possessing or transporting a jaguar within the United States and its territories.

The subspecies *Panthera onca veraecrucis*, with historical range in Texas and eastern Mexico, is designated by the United States government as a peripheral animal of concern in a provisional list for the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (Nowak, pers. comm., 1992). *Panthera onca arizonensis* is not so designated. This Convention, as implemented by sections 2 and 8(A) of the Act, does not require the protection of species listed only on a provisional basis. Therefore, neither *P. o. veraecrucis* nor *P. o. arizonensis* are currently protected.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

M–44 ejector devices with cyanide capsules used in Animal and Plant Health Inspection Service animal damage control programs to accommodate concerns of livestock owners over predator losses may be a threat to the jaguar (Terry B. Johnson, *in litt.*, 1993). Jaguars may also be victims of traps targeted for other predators such as bears and cougars.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to propose the jaguar (*Panthera onca*) as endangered throughout its range. The lack of protection under the Act for jaguars in the United States is due to an uncorrected technicality, rather than to any scientific information that jaguars do not require protection in the U.S. A decision to take no action would exclude the jaguar in the U.S. from needed protection pursuant to the Act. A decision to propose only threatened status would not adequately express the drastic distributional decline of the species and the continued jeopardy of any individuals in the U.S. Therefore, no action or listing as threatened would be contrary to the intent of the Act. Critical habitat is not being proposed at this time for the jaguar for reasons discussed in the "Critical Habitat" section of this proposal.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent or determinable for this species. Specific habitat used by jaguars in the United States is unknown. It would be possible to delineate some general areas that the species would be most likely to use. However, the lack of knowledge on the species' habitat use makes critical habitat undeterminable.

The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species. As discussed in factor "B" above, the jaguar is highly threatened by taking. Jaguars are still in demand for hunts and as trophies and pelts. The last verified jaguar in Arizona was hunted and killed in 1986 approximately one year after it was known to be in the area. Publication of detailed critical habitat maps and descriptions in the **Federal Register** would likely make the species more vulnerable to activities prohibited under section 9 of the Act. In addition, since the primary threat to the species in the United States is direct taking rather than habitat destruction, designation of critical habitat would not lessen, and may increase, the primary threat to the jaguar. Therefore, it would not be prudent to propose critical habitat for the jaguar at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and authorizes recovery plans for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal actions that may affect the jaguar include clearing of habitat, destruction of riparian areas, fragmentation or blocking of corridors that jaguars may use to cross from Mexico to the United States, and any trapping or animal control activities designed to target the jaguar or other large predators.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Permits may be sought since there are some zoos that have jaguars on display.

On July 1, 1975, the jaguar was included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that both export and import permits are generally required before international shipment may occur. Such shipment is strictly regulated by CITES party nations to prevent effects that may be detrimental to the species' survival. Generally, import or export cannot be allowed if it is for primarily commercial purposes. Requests for copies of the regulations on protected wildlife and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 420C, Arlington, Virginia 22203–3507 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical

habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Arizona State Supervisor (See **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available on request from the State Supervisor, Arizona Ecological Services State Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Lorena L. L. Wada of the Arizona Ecological Services State Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by revising the entry for the jaguar (*Panthera onca*) under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Jaguar	*Panthera onca*	U.S.A. (AZ, CA, LA, NM, TX), Mexico, C. and S. America.	Entire	E	5, _____	NA	NA
*	*	*	*	*	*		*

Dated: June 29, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–16911 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 59, No. 133
Wednesday, July 13, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM WO–220–4320–02241A]

Establishment of the Federal Livestock Grazing Fee Incentive Program Advisory Committee

AGENCY: Bureau of Land Management, Interior Forest Service, USDA.

ACTION: Notice; establishment of advisory committee.

SUMMARY: This notice announces the establishment of the Federal Livestock Grazing Fee Incentive Program Advisory Committee (Committee) by the Secretaries of the Interior and Agriculture (Secretaries) in accordance with the provisions of the Federal Advisory Committee Act (FACA). The Secretaries have determined that the Committee is necessary and in the public interest. The Committee shall terminate in two years or upon the submission of a report on aspects of an incentive-based grazing fee to the Secretaries of the Interior and Agriculture, whichever occurs first. Copies of the Committee's charter will be filed with the appropriate committees of Congress and the Library of Congress in accordance with section 9(c) of FACA.

FOR FURTHER INFORMATION CONTACT: Lee Otteni, Strategic Planner, Bureau of Land Management, 1849 C Street N.W., Washington, D.C. 20240–1050, (202) 208–6932. Jerry McCormick, Range Specialist, Forest Service, 201 14th Street, S.W., Box 96090, Washington, D.C. 20090–6090, (202) 205–1746.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretaries of the Interior and Agriculture on aspects of incentive-grazing fees, including: The types of livestock grazing activities or activities associated with livestock grazing that would provide incentives to encourage the proper stewardship of rangeland resources; the criteria by which eligibility for an incentive-based grazing fee should be determined; and, implementation options the agencies might consider.

The Secretaries will jointly appoint the members of the Committee. To achieve a balance of stakeholder views, members will be representative of the livestock industry, natural resource or natural science academia, environmental or resource conservation groups, employees of the agencies, and employees of State agencies with jurisdiction over matters related to livestock grazing, public land management, fish and wildlife conservation, or environmental protection. Membership will include individuals who have expertise, through education or practical experience, in livestock production, rangeland sciences, natural resources management, or similar disciplines.

Certification

I hereby certify that the Federal Livestock Grazing Fee Incentive Program Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Agriculture and the Department of the Interior by the Taylor Grazing Act, 43 U.S.C. 315 *et seq.*, the Granger-Thye Act, 16 U.S.C. 580 *et seq.*, the National Forest Management Act, 16 U.S.C. 1600 *et seq.*, the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and the Public Rangelands Improvement Act, 43 U.S.C. 1901 *et seq.*, and the Independent Offices Appropriations Act, 31 U.S.C. 9701 *et seq.*

Bruce Babbitt,

Secretary of the Interior.

Wardell C. Townsend, Jr.,

Assistant Secretary of Agriculture for Administration.

[FR Doc. 94–16810 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–84–M

Soil Conservation Service

Changes in Hydric Soils of the United States

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of change.

SUMMARY: Pursuant to 7 CFR 12.31(a)(3)(i), the Soil Conservation Service, United States Department of Agriculture gives notice of a change in the Hydric Soils of the United States as listed in the third edition of the Hydric Soils of the United States, Miscellaneous Publication 1491, U.S. Department of Agriculture, Soil Conservation Service, June 1991.

FOR FURTHER INFORMATION CONTACT: Craig A. Ditzler, Chair, National Technical Committee for Hydric Soils, National Soil Survey Center, Soil Conservation Service, room 152, Federal Building, 100 Centennial Mall N., Lincoln, NE 68508–3866, Telephone (402) 437–5353.

SUPPLEMENTARY INFORMATION: The third edition of the Hydric Soils of the United States was published June 1991, and a notice of change published in the **Federal Register**, October 11, 1991, Vol. 56, No. 198, page 51371. Changes to this document were made in 1993 and published in the **Federal Register**, October 6, 1993, Vol. 58, No. 192, page 52078. The changes published herein reflect soils added and deleted since the 1991 publication.

The national list of hydric soils changes as additional soil series are recognized and defined and/or properties of existing soil series are updated based on additional data. These changes reflect refinements in knowledge of the soils of the United States. New soil series are recognized as soils are mapped in previously unmapped areas. These new series have always met hydric soil criteria, whether recognized as series or not, and thus represent an insignificant change in acreage of hydric soils. Soils that are removed from the list are mostly dry phases of existing hydric soils. These dry phases would not have met wetland hydrology criteria, thus represent an insignificant change in acreage of wetlands.

The list of hydric soils is computer generated using the hydric soil criteria and a database of properties of each soil series in the United States. The database

is also used to generate interpretations of how soils perform for many land uses. Therefore, some changes in the list of hydric soils result from adding phases for a hydric soil to refine another interpretation. This split or addition of a hydric phase causes an increase in the number of hydric soils, but does not affect the acres of the hydric soil. Data for all soil series are in the Soil Interpretations Record and may be reviewed by contacting a local office of the Soil Conservation Service in the appropriate State.

The National Technical Committee also modified the definition of hydric soils as given in Miscellaneous Publication 1491 to "A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part." The change in the definition does not affect the National List of Hydric Soils. The change aligns the definition more closely with *Soil Taxonomy* and clarifies that artificially drained phases are hydric soils if the soil in its undisturbed state meets the criteria.

Dated: June 29, 1994.

Richard W. Arnold,

Director, Soil Survey Division.

Briefing Paper

National List of Hydric Soils

Prepared by: Maurice J. Mausbach, May 1993

Background

—The National List of Hydric Soils is:

*published by the Soil Conservation Service.

*revised annually and notice is filed in **Federal Register**.

*generated from Soil Interpretations Records in the National Soil Database.

—The National Technical Committee for Hydric Soils reviews and concurs with changes to the National List of Hydric Soils.

—The Soil Interpretations Records for soil series are:

*continuously updated as data is collected on soil properties.

*reviewed by the soil survey quality assurance staff at the National Soil Survey Center.

*used in all aspects of the Soil Survey Program *of which hydric soils are a small part.*

Reasons for Changes in the Hydric Soil List

—Addition of new soil series due to:

*newly mapped areas (soils have always been hydric but have not previously been recognized as soil series).

*narrowing of an existing series into two soils. An example being a series that is both hydric and nonhydric being split into their respective parts.

—Result from new phases being added to an existing soil series. Phases are added for many reasons and include:

*flooding and ponding phases of which some may be hydric and others nonhydric. Many of these changes are made to accommodate nonhydric interpretations of soil use.

*surface texture or depth phases both of which are not related to change in hydric soil status but are needed for other interpretations.

*wetness or water table phases of which some may be hydric and others nonhydric. Some of these changes are made to accommodate other interpretations of soil use.

—Result from change in flooding, ponding, water table, or drainage class as a result of new information. Soils are added and deleted from the list due to these changes.

Summary of Changes to 1991 National List

—116 entries (soils) added of which

*36 are phases of existing hydric soils. These are new phase names for existing hydric soils.

*61 are new soil series established from new soil mapping. These areas of hydric soils which are given new names are previously unmapped and thus have *no* affect on acres of hydric soils or acres of wetlands.

*8 series that was split—one part being hydric and the other part nonhydric. The whole series has been considered hydric, but the nonhydric portion would not have met hydrology criteria. Because only part of the original series met wetland hydrology criteria, this change has little affect on acres of wetlands.

*1 soil series was changed from nonhydric to hydric because of new information on water table.

—14 entries (soils) were deleted of which

*4 result from new technical data. These have been borderline hydric soils and would not have met wetland hydrology criteria. The change slightly reduces the acres of hydric soils.

*5 records were dropped because of non use.

*5 series was split and made nonhydric. Other phases were added for the hydric part of the soil.

SIR No.	Soil series	Reason
	Soils Added to the National List of Hydric Soils in 1993 Justification	
IA0619	Afton, undrained	New phase for hydric part of soil.
CA2505	Alamo, rarely flooded	New phase of existing hydric soil.
MS0130	Alligator, commonly flooded	New phase of existing hydric soil.
MS0131	Alligator, ponded	New phase of existing hydric soil.
CO3356	Apishapa, dry	New phase of existing hydric soil.
DE0005	Assawoman	New soil series.
MI0664	Barry, low precipitation	New phase of existing hydric soil.
ID1876	Bear Lake, gravelly substratum	New phase of existing hydric soil.
ID1874	Bear Lake, occasionally flooded	New phase of existing hydric soil.
MS0014	Belden	New phase for long duration flooding.
WA0770	Bellingham, drained	New phase of existing hydric soil.
MN0695	Berner, wet	New phase for wet portion of soil.
NJ0114	Berryland, ponded	New phase of existing hydric soil.
MT1460	Bigsandy, heavy metals	New phase of existing hydric soil.
MN0456	Biscay, sloping	New phase of existing hydric soil.
ID1789	Blackotter	New soil series.
ID1784	Blackotter, frequently flooded	New soil series.
CA2536	Blavo	New soil series.
CA2538	Blavo, overwash	New soil series.
CA2537	Blavo, ponded	New soil series.
IA0616	Blend, undrained	New phase for hydric part of soil.
OK0402	Bocox	New soil series.

SIR No.	Soil series	Reason
FL0139	Bodiford	New soil series.
ID1810	Bootjack, stratified substratum	New phase of existing hydric soil.
WA0047	Bow	New soil series.
WA0803	Briscot, drained	New phase of existing hydric soil.
DE0010	Broadkill	New soil series.
MT1392	Bushong	New soil series.
MI0399	Caffey	New soil series.
IA0620	Calcousta, undrained	New phase for hydric part of soil.
WI0511	Capitola, very stony	New phase of existing hydric soil.
WA2039	Carrolls	New phase of existing hydric soil.
WA2040	Carrolls, overwash	New phase of existing hydric soil.
OR1567	Cashner	New soil series.
NY0435	Churubusco	New soil series.
PR0076	Ciales	New soil series.
MI0671	Colwood, bedrock substratum	New soil series.
ID1790	Cookcan	New soil series.
WA0854	Coveland	New soil series.
MN0690	Danielson	New soil series.
MN0694	Danube	New soil series.
MI0668	Dawson, flooded	New phase of existing hydric soil.
MI0649	Deerheart	New soil series.
NY0446	Deinache	New soil series.
PA0161	Edgemere, stony	New soil series.
CA2486	Egbert, moderately wet	New phase of existing hydric soil.
CA2531	Esquon	New soil series.
MT1467	Fairbirch	New soil series.
MN0709	Giese	New soil series.
MO0200	Gifford, sandy substratum	New phase of existing hydric soil.
NY0447	Gougeville	New soil series.
MI0672	Granby, low ppt	New phase of existing hydric soil.
OR1579	Grande Ronde, wet	New phase of existing hydric soil.
AK0385	Helm	New phase of existing hydric soil.
MN0666	Hillview	New soil series.
CA2543	Holillipah, flooded	New phase of existing hydric soil.
PR0199	Icacos	New soil series.
MN2051	Jarola, MAP>16	New phase of existing hydric soil.
MN0711	Jevne	New soil series.
WA1990	Joseph, frequently flooded	New phase of existing hydric soil.
NV2676	Jubilee, moderately wet	New phase of existing hydric soil.
PA0163	Knauers	New soil series.
AK0406	Kuslina, thin surface	New phase of existing hydric soil.
CO3376	Las Animas, poorly drained	New phase of existing hydric soil.
ID1777	Lemhi	New soil series.
DE0012	Lenape	New soil series.
ND0434	Lindaas, moraine	New phase of existing hydric soil.
CA2532	Lofgren, ponded	New soil series.
CA2533	Lofgren, ponded	New soil series.
UT1879	Logan, commonly flooded	New phase of existing hydric soil.
MI0669	Loxley, flooded	New phase of existing hydric soil.
NY0438	Lyonmounten	New soil series.
NY0439	Lyonmounten, stony	New soil series.
TX1266	Manco	New soil series.
NJ0104	Mannington	New soil series.
MT1399	Mannixlee	New soil series.
TX1268	Mattex	New soil series.
NE0411	McCuligan	New soil series.
ND0384	McKenzie, calcareous	New phase of existing hydric soil.
OH0397	Millgrove, clayey substratum	New phase of existing hydric soil.
PR0201	Moteado	New soil series.
WI0520	Muskego, flooded	New phase of existing hydric soil.
CA2535	Neerdobe	New soil series.
CA2534	Neerdobe, overwash	New soil series.
OR1581	Nestucca, wet	New phase of existing hydric soil.
MN0732	Nielsville	New soil series.
OR1527	Olallie	New soil series.
PR0204	Palm, rubbly	New soil series.
MI0606	Pickford, mucky surface	New phase of existing hydric soil.
MT1393	Poronto	New soil series.
PR0206	Prieto	New soil series.
MN0739	Reis	New soil series.
TX0696	Satatton	Properties changed soil is now hydric.
WA0060	Scamman	New soil series.
WA1987	Semiahmoo, partially drained	New phase of existing hydric soil.
FL0138	Shired	New soil series.

SIR No.	Soil series	Reason
MI0620	Spot	New soil series.
WA1860	Stallard	New soil series.
UT1902	Steed, loamy	New phase of existing hydric soil.
ND0430	Stirum, MAP13–17	New phase of existing hydric soil.
MN0696	Strathcona, very wet	New soil series.
ID1832	Tepete, loamy subsoil	New phase of existing hydric soil.
WA2006	Toppenish, cool	New phase of existing hydric soil.
CO0445	Uncompahgre	New soil series.
CO0051	Vasquez	New soil series.
CO7281	Vastine, gravelly substratum	New phase of existing hydric soil.
CO3293	Vastine, MAP>16	New phase of existing hydric soil.
TX1261	Victine, depressional	New phase for hydric part of soil.
MT1464	Villmeagher	New soil series.
MT1465	Villsprings	New soil series.
MI0646	Wakeley	New soil series.
WA2046	Wanser, moderately wet	New phase of existing hydric soil.
MN0680	Wealthwood	New soil series.
FL0134	Yellowjacket	New soil series.
FL0136	Yellowjacket, limestone substratum	New soil series.
ID1780	Zeph	New soil series.
	Soils Deleted From the National List of Hydric Soils in 1992 Justification	
IA0130	Afton, drained	Non hydric phase of soil.
TX0609	Aufco	Ponding was revised to brief based on observations.
IA0104	Blend, drained	Non hydric phase, hydric phase was added.
IA0312	Calcousta, drained	Non hydric phase, hydric phase was added.
WI0470	Fordum, gravelly substratum	SIR record not used and was deleted.
CA1304	Holillipah	Soil has rare flooding, frequently flooded phase was added.
FL0564	Leon, hydric	Duplicate record was deleted.
WI0002	Newson, mucky surface	SIR record not used and was deleted.
MD0003	Rutlege	SIR record transfered to SC.
MD0102	Rutlege, ponded	SIR record transfered to SC.
TX1158	Tobosa, depressional	Ponding is brief soil deleted from list.
TX1029	Verhalen, depressional	Ponding is brief soil deleted from list.
TX0283	Victine	Ponding is brief, phase added for long duration ponding.
TX0753	Zilaboy	Soil is moderately well drained and classification was changed.

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Adder (WI0491) terric medisaprists	Mesic	VP	+1 – 1.0	Sep–Jun	<6.0	Frequent	Long	Oct–Jun	1, 3, 4	Drained	4W
										Undrained	5W
Afton, undrained (IA0619) cumulic endoaquolls[1].	Mesic	P	0 – 2.0	Nov–Jul	<6.0	Common	V Brief	Feb–Nov	2B3	All	5W
Ajax (ID1703) cumulic haplaquolls	Frigid	P	0.5–1.5	Mar–Jul	<6.0	Occasional	Brief	Jan–Jun	2B3	All	5W
Alamo, rarely flooded (CA2505) typic duraquolls.	Thermic	P	0 – 1.0	Dec–Apr	<6.0	Rare			2B3	ETA<12	4W
Albaton, dry (IA0107) vertic fluvaquents	Mesic	VP	+4. – 2.0	Nov–Jul	<6.0	Frequent	Brief	Mar–Oct	2B3,3	All	6W
Alligator, commonly (MS0130) alic dystraquerts.	Thermic	P	0 – 1.0	Dec–Apr	<6.0	Common	Brief-V Long.	Dec–Jul	2B3,4	Occas	4W
										Freq	5W
										Occas, Undulating	4W
										Freq, undulating	5W
Alligator, ponded (MS0131) alic dystraquerts	Thermic	P	+3 – 2.0	Jan–Dec	<6.0	None			2B3,3	All	4W
Alvodest, somewhat poorly drained (OR1467) natric camborthids[1].	Mesic	SP	+.5 – 3.0	Dec–Apr	<6.0	Rare			3	All	7W
Anan (AK0362) typic cryaquents	Cryic	VP,P	0.5–1.0	Jan–Dec	<6.0	Frequent	Long	Jul–Nov	2B3,4	0.2%	6W
Apishapa, dry (C03356) vertic fluvaquents	Mesic	P	1.0 – 3.0	May–Aug	<6.0	Occasional	Brief	May–Jul	2B3	0 – 6%	6W
										LS	6W
Assawoman (DE0005) typic psammaquents	Mesic	P	0 – 1.0	Dec–May	>=6.0	None-rare			2B2	Drained	3W
										Undrained	4W
Auganaush (MN0635) mollic ochraqualfs	Frigid	P	1.0 – 3.0	Nov–Jun	<6.0	None			2B3	Drained	2W
										Undrained	4W
Balize, drained (LA0195) typic hydraquents	Thermic	P	0.5 – 1.5	Jan–Dec	<6.0	Rare			2B3	All	4W
Bardwell, winter flooding (KY0192) fluventic hapludolls[2].	Thermic	W	3.0 – 6.0	Feb–Mar	<6.0	Frequent	Long	Dec–May	4	0–6%	3W
										6–12%	2E
										12–20%	4E
										20–25%	6E
Barry, low precipitation (MI0664) typic argiaquolls.	Mesic	P	1.0 – 2.5	Nov–Jul	<6.0	None			2B3	0–2%	2W
Bayvi, limestone substratum (FL0563) cumulic haplaquolls.	Thermic	VP	0 – 1.0	Jan–Dec	<6.0	Frequent	V Brief	Jan–Dec	2B3	All	8W
Bear Lake, gravelly substratum (ID1876) typic calciaquolls.	Frigid	P	+.5–1.5	Feb–Jul	<6.0	Occasional	Brief	Feb–Apr	2B3,3	0–2%	5W
Bear Lake, occasionally flooded (ID1874) typic calciaquolls.	Frigid	P	+.5–1.5	Feb–Jul	<6.0	Occasional	Brief	Feb–Apr	2B3,3	0–2%	5W
Bear Lake, very poorly drained (ID1699) typic calciaquolls.	Frigid	VP	+2–1.0	Dec–Aug	<6.0	Frequent	V Long	Dec–Sep	2B3,3,4	0–1%	5W
Belden (MS0014) aeric fluvaquents[2]	Thermic	SP	1.0–1.5	Jan–Mar	<6.0	Frequent	Long	Jan–Mar	4	Freq	4W
Bellingham, drained (WA0770) mollic haplaquepts.	Mesic	P	0.5–3.0	Nov–Jun	<6.0	None			2B3	All	3W
Bellslake (ID6023) fluvaquentic humaquepts	Frigid	VP	+1.–1.5	Oct–Aug	<6.0	Frequent	V Long	Dec–Jun	2B3,3,4	All	5W
Bemis, stony (ME0139) aerica cryaquepts	Cryic	P	0–1.0	Sep–Jun	<6.0	None			2B3	All	7S
Berner (MN0628) terric borosaprists	Frigid	VP	+1.–2.0	Nov–Jun	<6.0	None			1	Drained	4W
										Undrained	6W
Berner, wet (MN0695) terric borosaprists	Frigid	VP	0–2.0	Jan–Dec	<6.0	None			1	All	6W

Berryland, ponded (NJ0114) typic haplaquods	Mesic	VP	+.5–0.5	Nov–May	<6.0	None			2B3,3	0–2% Drained.	4W
										0–2% Undrained	5W
Bigsag (MT1077) typic halaquepts	Frigid	P	1.0–3.0	Dec–Jun	<6.0	Rare-Occassional.	Brief-Long	Mar–May	2B3	Rare Occas.	7W
											7W
Bigsandy, heavy metals (MT1460) typic fluvaquents.	Frigid	P	1.0–2.0	Dec–Jun	<6.0	Rare-Occassional.	Long	Apr–Jun	2B3	All	7E
Bigsandy, saline (MT1335) typic fluvaquents	Frigid	P	1.0–2.0	Dec–Jun	<6.0	Occasional	Long	Apr–Jun	2B3	All	7W
Biscay, sloping (MN0456) typic endoaquolls	Mesic	P	0–1.5	Nov–Jun	<6.0	None			2B3	All	6W
Blackcreek (MT1361) typic haplaquepts	Frigid	P	1.0–4.0	Apr–Jul	<6.0	Rare			2B3	0–2%	5W
Blacklake (MT1360) histic haplaquands	Frigid	VP	+2–1.0	Jan–Dec	<6.0	None			2B3,3	0–1%	5W
Blackotter (ID1789) aeric calciaquolls	Frigid	P	0–1.5	Dec–May	<6.0	Rare			2B3	0–2%	5W
Blackotter, frequently flooded (ID1784) aeric calciaquolls.	Frigid	P	0–1.5	Feb–Jun	<6.0	Frequent	Long	Jan–Jun	2B3,4	0–2%	5W
Blavo (CA2536) typic duraquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	Rare			2A,3	All	3W
Blavo, overwash (CA2538) typic duraquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	Occasional	Brief	Jan-Mar	2A,3	Map>16	3W
Blavo, ponded (CA2537) typic duraquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	Occasional	Long	Dec–Apr	2A,3	All	3W
Blend, undrained (IA0616) fluvaquentic endoaquolls [1].	Mesic	P	0–2.0	Nov–Jul	<6.0	Rare			2B3	Sic	5W
										Sicl	5W
Bocox (OK0402) aquic arenic hapludalfs	Thermic	VP	+1–1.5	Oct–Jan	<6.0	None			2B3,3	All	5W
Bodiford (FL0139) arenic edoaqualfs	Thermic	VP	+2–0	Feb–Oct	<6.0	Frequent	Long	Feb–Oct	2B3,3,4	All	7W
Boley (OK0362) aeric fluvaquents	Thermic	P	0–1.0	Nov–Jun	<6.0	Frequent	V Brief-Brief.	Apr–Sep	2B3	All	5W
Bootjack, stratified substratum (ID1810) aeric cryaquepts.	Cryic	P	0–1.5	Apr–Jun	<6.0	Frequent	Long	Apr–Jun	2B3,4	All	5W
Borah (ID1639) aquic calcixerolls [1]	Frigid	P	1.0–2.0	Apr–Aug	<6.0	Occasional	Brief	Apr–May	2B3	All	5W
Boulder Lake, poorly drained (NV2551) aquic chromoxererts.	Frigid	P	+.5–1.5	Dec–Jun	<6.0	None			2B3,3	All	6W
BOW (WA0047) aquic palexeralfs [1]	Mesic	SP	0–1.5	Nov–May	<6.0	None			2A	0–3%	3W
										3–8%	3W
										8–20%	3E
										20–30%	4E
										30+%	6E
										0–8% GR	3W
										8–15% GR	3E
										15–30% GR.	4E
										0–8% Low PPT.	3W
										8–20% Low PPT	3E
Brandsvold (MN0625) typic argiaquolls	Frigid	P	1.0–3.0	Mar–Jun	<6.0	None			2B3	All	2W
Brinnum, alkali (NV2573) typic halaquepts [1]	Mesic	VP	0.5–1.5	Sep–May	<6.0	Occasional	Long	Oct–May	2B3	0–2%	5W
Briscot, drained (WA0803) aeric fluvaquents	Mesic	P	1.0–3.0	Nov–Apr	<6.0	Rare			2B3	All	2W
Broadkill (DE0010) typic sulfaquents	Mesic	VP	+1–0	Jan–Dec	<6.0	Frequent	V brief	Jan–Dec	2B3,3	All	8W
Bushong (MT1392) aeric endoaquents	Frigid	P	1.0–2.0	Apr–Aug	<6.0	None-rare			2B3	0–4%	6W
Caffey (MI0399) aeric endoaquents	Frigid	P,VP	+1–1.0	Oct–May	<6.0	None			2B3,3	All	5W
Calcousta, undrained (IA0620) typic endoaquolls [1].	Mesic	VP	+1–1.0	Nov–Jul	<6.0	None			2B3,3	Undrained	5W
Canburn, stratified substratum (UT1825) cumulic haplaquolls.	Frigid	P	1.0–2.0	Apr–Jul	<6.0	Occasional	V brief	Jul–Sep	2B3	0–2%	3W
Capitola (WI0423) Mollic Epiaqualfs	Frigid	P,VP	+1–1.0	Oct–Jun	<6.0	None			2B3,3	Drained	3W
										Undrained	6W

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST—Continued

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Capitola, very stony (WI0511) mollic epiaqualfs.	Frigid	P,VP	+1–1.0	Sep–Jun	<6.0	None			2B3,3	All	7W
										Undrained	6W
Carrolls (WA2039) typic psammaquents [1]	Mesic	SP	0–1.0	Nov–Apr	<6.0	None			2A	All	4W
Carrolls, overwash (WA2040) typic psammaquents [1].	Mesic	SP	+.5–1.5	Nov–May	<6.0	Rare			2A,3	All	4W
Cashner (OR1567) typic duraquods	Isomesic	P	0.5–1.5	Nov–Apr	<6.0	None			2B3	ALL	4W
Cathro, frequently flooded (MI0108) terric borosaprists.	Frigid	VP	+2–1.0	Jan–Dec	<6.0	Frequent	Brief-V long.	Mar–May	1,3	All	8W
Chaires, hydric (FL0121) alfic haplaquods [1]	Thermic	P	0–0.5	Mar–Sep	>=6.0	None			2B1	All	4W
Cheniere, frequently flooded (LA0202) typic udipsamments [1 2].	Thermic	SE	>6.0		<6.0	Frequent	Long	Jan–Dec	4	Freq	5W
Chichagof (AK0348) histic cryaquepts	Cryic	VP	0–1.0	Jan–Dec	<6.0	Occasional	V brief	Oct–Apr	2B3	All	7W
Chippewa, friable substratum (NY0522) typic fragiaquepts.	Mesic	P,VP	+.5–0.5	Nov–May	<6.0	None			2B3,3	All	7S
Chunilna (AK0352) typic cryaquands	Cryic	VP	0–1.5	Apr–Sep	<6.0	None			2B3	0–7%	6W
Churubusco (NY0435) lithic borosaprists	Frigid	VP	+1–1.0	Nov–Jun	<6.0	None			1	All	7W
Ciales (PR0076) aeric epiaquults	Isothermic	P	0.5–2.0	Jan–Dec	<6.0	None			2B3	All	7E
Citypoint (WI0441) typic borosaprists	Frigid	VP	+1–1.0	Nov–Jun	<6.0	None			1	All	7W
Clara (FL0560) spodic psammaquents	Thermic	P	0–1.0	Jun–Dec	>=6.0	None-Common.	Brief	Jan–Mar	2B1	None, Rare.	4W
										Common	6W
Clara (FL0561) spodic psammaquents	Thermic	VP	+2–0	Jan–Dec	>=6.0	None			2B1,3	All	6W
Clear Lake, MAP>16 (CA2484) typic pelloxererts [1].	Thermic	P	+1–6.0	Dec–Mar	<6.0	Rare			2B3,3	Map>16	3W
Clearwater, depressional (MN0670) typic haplaquolls.	Frigid	VP	+1–1.0	Jan–Dec	<6.0	None-rare			2B3,3	Drained	3W
										Undrained	6W
Cohoctah, low precipitation (MI0279) fluvaquentic haplaquolls.	Mesic	P,VP	+1–3.0	Nov–Jul	<6.0	Common	Brief-long	Apr–Nov	2B3,3,4	All	6W
Colvin, occasionally flooded (ND0417) typic calciaquolls.	Frigid	P	0–1.0	Mar–Jun	<6.0	Occasional	Brief	Mar–June	2B3	All	3W
Colwood, bedrock substratum (MI0671) typic haplaquolls.	Mesic	P	+1–1.0	Oct–May	<6.0	None			2B3,3	All	2W
Cookcan (ID1790) aeric calciaquolls	Frigid	P	0–1.5	Dec–May	<6.0	Rare			2B3	0–2%	4W
Cormant (MN0002) mollic psammaquents	Frigid	P	0.5–2.5	Apr–Jul	>=6.0	None			2B2	All	4W
Coveland (WA0854) aquic palexeralfs [1]	Mesic	SP	0–2.0	Nov–Mar	<6.0	None			2A	0–8%	3W
										8+%	3E
Cradlebaugh (NV2678) duric haplaquolls [1]	Mesic	P	1.0–2.0	Dec–May	<6.0	Occasional	Brief	Dec–Mar	2B3	SLI SAL–ALK.	6W
										STR SAL–ALK	7W
Danielson (MN0690) cumulic endoaquolls	Mesic	P	1.0–3.0	Nov–Jul	<6.0	None			2B3	All	2W
Danube (MN0694) typic calciaquolls	Mesic	P	1.0–3.0	Nov–Jun	<6.0	None			2B3	Drained	2W
										Undrained	6W
Dawsil (WI0490) terric borosaprists	Frigid	VP	+1–1.0	Sep–Jun	<6.0	None			1	All	7W
Dawson, flooded (MI0668) terric borosaprists	Frigid	VP	+1–1.0	Sep–Jun	<6.0	Common	V Long	Oct–Jun	1	All	7W
Deerheart (MI0649) aeric endoaquepts	Frigid	P,VP	+1–1.0	Oct–May	<6.0	None			SB3,3	Drained	2W
										Undrained	5W

Degarmo, Wet (OR1386) cumulic haplaquolls[1]	Frigid	P	1.0–4.0	Mar–Sep	<6.0	Frequent	Brief	Mar–Jun	2B3	All	5W
Deinache (NY0446) mollic psammaquents	Frigid	P	0–1.0	Nov–May	>=6.0	None			2B2	Drained	3W
										Undrained	4W
Dosa (CA2426) Aquic chromoxererts	Mesic	SP	+.5–2.5	Dec–Apr	<6.0	None			2A,3	0–2%	5W
Downata, ponded (ID1785) cumulic haplaquolls.	Frigid	VP	+1.–1.5	Jan–Jun	<6.0	Frequent	Brief	Jan–Jun	2B3,3	All	5W
Duckston, ponded (NC0269) typic psammaquents.	Thermic	P	+1.–0	Jan–Dec	>=6.0	None–common.	Brief	Jan–Dec	2B1,3	All	7W
Eagleton (MT1345) cumulic haplaquolls	Frigid	P	1.0–2.0	Nov–Jun	<6.0	Occasional	Brief	Apr–Jun	2B3	All	5W
Edgemere, Stony ((PA0161) typic fragiaquepts	Mesic	VP,P	0–0.5	Nov–May	<6.0	None			2B3	All	7S
Edina, ponded (MO0343) typic argialbolls	Mesic	P	+.5–1.0	Nov–Apr	<6.0	None			2B3,3	All	3W
Edwards, Sandy substratum (MI0616) limnic medisaprists.	Mesic	VP	+1–1.0	Sep–Jun	<6.0	None			1,3	All	5W
Egbert, moderately wet (CA2486) cumulic haplaquolls[1, 3].	Thermic	A,P	1.0–3.0	Jan–Dec	<6.0	Rare			2B3	Rare	4W
Egglake (MN0654) mollic ochraqualfs	Frigid	P	1.0–3.0	Oct–Jul	<6.0	None			2B3	All	2W
Esquon (CA2531) xeric epiaquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	None-rare			2A,3	All	3S
Fairbirch (MT1467) fluvaquentic endoaquolls	Frigid	P	1.0–2.0	Apr–Jul	<6.0	Occasional	Brief	Apr–Jun	2B3	All	6W
Fredon, poorly drained (NJ0138) aeric haplaquepts[1].	Mesic	P	0–0.5	Oct–Jun	<6.0	None-Occasional.	Brief	Jan–Apr	2B3	0–3% Drained.	3W
										Undrained	4W
Frost, Ponded (LA0087) typic glossaqualfs	Thermic	P	+2–0	Jan–Dec	<6.0	Frequent	V Long	Jan–Dec	2B3,3,4	All	7W
Galt, cool (CA2475) typic chromoxererts[1]	Thermic	MW	+1–0.5	Dec–Mar	<6.0	None-rare			3	MAP15–18	3W
Giese (MN0709) mollic epiaqualfs	Frigid	VP	+1–1.0	Jan–Dec	<6.0	None			2B3,3	Drained	4W
										Undrained	6W
Giffford, sandy substratum (MO0200) vertic epiaqualfs.	Mesic	P	0.5–1.5	Nov–Apr	<6.0	Rare			2B3	2–5%	2E
										5–9%	3E
Gothenburg, sandy (NE0392) typic psammaquents.	Mesic	P	0–2.0	Nov–Jun	>=6.0	Common	Brief	Jan–Jun	2B2	All	7W
Gougeville (NY0447) mollic psammaquents	Mesic	P,VP	+.5–1.0	Nov–Jun	<6.0	None			2B3,3	Drained	3W
										Undrained	4W
										MK,	4W
										Drained.	5W
										MK, Undrained	
Granby, clayey substratum (MI0623) typic haplaquolls.	Mesic	P,VP	+1–1.0	Nov–Jun	>=6.0	None			2B2,3	Drained	4W
										Undrained	5W
Granby, low PPT (MI0672) typic haplaquolls	Mesic	P,VP	+1–1.0	Nov–Jun	<6.0	None			2B3,3	Drained	4W
										Undrained	5W
Grande Ronde, wet (OR1579) aquic dystrochrepts[1].	Mesic	SP	0–0.5	Dec–Apr	<6.0	None			2A	All	3W
Haggerty, clayey surface (LA0203) aeric ochraquults.	Thermic	SP	0–1.5	Nov–Jun	<6.0	Rare-Common.	V Long	Nov–Jul	2A,4	Freq	5W
										Rare, Sicl	2W
										Rare, Sic	3W
										Occas, Sicl	3W
										Occas, Sic	4W
Halleck, thick surface (NV2669) cumulic haplaquolls[12].	Frigid	P	1.5–2.5	Feb–Jul	<6.0	Frequent	Long	Mar–Jun	4	Freq	5W
Haslie (MN0629) limnic borosaprists	Frigid	VP	0–1.0	Nov–Jul	<6.0	None			1	Drained	4W
										Undrained	6W
Haslie, ponded (MN0630) limnic borosaprists	Frigid	VP	+2–0	Jan–Dec	<6.0	None			1,3	All	8W
Hedman (MN0661) typic calciaquolls	Frigid	P	0–2.0	Apr–Jul	<6.0	None			2B3	Drained	2W
										Undrained	4W
Hedman, depressional (MN0662) typic calciaquolls.	Frigid	VP	+2–0.5	Apr–Jul	<6.0	None			2B3,3	Drained	3W
										Undrained	6W

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST—Continued

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Helm (AK0385) histic lithic cryaquepts	Cryic	P	0.5–1.5	Jan–Dec	<6.0	None			2B3	5–7%	5W
										7–30%	6W
										30–99%	7W
Herdcamp (SD0489) typic haplaquolls	Mesic	VP	0–1.0	Apr–Oct	<6.0	Frequent	Brief	Mar–Nov	2B3	All	6W
Hershal, occasionally flooded (OR1473) cumulic haplaquolls.	Mesic	P	0.5–1.5	Mar–Jun	<6.0	Occasional	Brief	Mar–Jun	2B3	All	3W
Hillview (MN0666) mollic endoaqualfs	Frigid	P	0.5–3.0	Nov–Jul	<6.0	None			2B3	All	2W
Holillipah, flooded (CA2543) typic xerofluvents [1 2].	Thermic	SE	<6.0		<6.0	Frequent	Long	Dec–Apr	4	Freq	4W
Hosford (FL0571) cumulic humaquepts	Thermic	VP	0–0.5	Dec–Sep	>=6.0	None			2B2	2–8%	6W
										8–12%	7W
Hulderman (NV2655) duric haplaquolls [2]	Mesic	P	1.5–2.0	Mar–Jun	<6.0	Frequent	Long	Mar–Jun	4	Nirr	7W
Icacos (PR0199) typic fluvaquents	Isothermic	P	0.5–1.0	Apr–Dec	<6.0	Occasional	Brief	Jan–Dec	2B3	All	7W
Iksgiza (AK0371) histic pergelic cryaquepts	Cryic	P	0–1.5	Jan–Dec	<6.0	None			2B3	0–7%	5W
										7–30%	6W
Isanti, depressional (MN0651) typic haplaquolls.	Frigid	VP	+1–1.0	Oct–Jun	>=6.0	None			2B2,3	Drained	4W
										Undrained	6W
Jacktone, ponded (CA2466) typic pelloxererts [1].	Thermic	SP	+1–0	Dec–Apr	<6.0	Occasional	Long	Dec–Apr	2A,3	All	3W
Jacktone, ponded, protected (CA2467) typic pelloxererts [1].	Thermic	SP	+1–0	Dec–Apr	<6.0	Rare			2A,3	All	3W
Jarola, Map>16 (NM2051) typic argialbolls	Frigid	P	1.0–3.0	Mar–Jun	<6.0	Rare			2B3	All	4C
Jebavy (MI0617) aeric haplaquods	Mesic	P	+1–1.0	Oct–Jun	>=6.0	None			2B1,3	Drained	4W
										Undrained	5W
Jebavy, sandy surface (MI0633) aeric haplaquods.	Mesic	P	+1–1.0	Oct–Jun	>=6.0	None			2B1,3	Drained	4W
										Undrained	5W
Jevne (MN0711) mollic endoaqualfs	Frigid	P	1.0–3.0	Nov–Jun	<6.0	None			2B3	Drained	2W
										Undrained	4W
Joseph, frequently flooded (WA1990) aquic xerofluvents [1].	Mesic	MW	3.0–5.0	Dec–Jun	>=6.0	Frequent	Long	Dec–Jun	4	0–2%	6S
Jubilee, moderately wet (NV2676) typic endoaquolls [1].	Mesic	P, VP	1.0–2.5	Dec–Jun	<6.0	Rare			2B3	V poorly dr	5W
										Poorly dr	5W
Kanona, poorly drained (NY0058) aeric haplaquepts [1].	Mesic	P	0–0.5	Dec–Jun	<6.0	None			2B3	Undrained	3W
										Drained	3W
Kechumstuk (AK0378) histic cryaquepts	Cryic	VP	0–1.0	Jan–Dec	<6.0	None-rare			2B3	0–2%	5W
Kechumstuk, gravelly substratum (AK0379) histic cryaquepts.	Cryic	VP	0–1.0	Jan–Dec	<6.0	None-rare			2B3	0–2%	5W
Keys, terrace (CA2471) abruptic durixeralfs [1]	Thermic	MW	+1–1.5	Dec–Mar	<6.0	None			3	2–5%	4S
										5–15%	4E
Kezan, overwash (NE0383) mollic fluvaquents	Mesic	P	1.0–3.0	Nov–Jun	<6.0	Common	Brief	Mar–Jul	2B3	Occas	4W
										Channeled, freq	5W
Kindanina (AK0372) pergelic cryaquepts	Cryic	P	0–1.5	Jan–Dec	<6.0	None			2B3	0–7%	5W
										7–30%	6W
										30–35%	7W
Knauers (PA0163) typic fluvaquents	Mesic	P	+.5–0.5	Sep–Jun	<6.0	Common	V brief	Nov–Jun	2B3,3	All	4W
Kolda, drained (NV2672) typic haplaquolls	Mesic	VP	+1–2.0	Apr–Jun	<6.0	None			2B3,3	All	5W

Kolda, ponded (NV2673) typic haplaquolls	Mesic	VP	+3–0	Jan–Dec	<6.0	None			2B3,3	All	5W
Kratka, stratified substratum (MN0640) typic haplaquolls.	Frigid	P	1.0–5.0	Apr–Jul	<6.0	None			2B3	All	3W
Kratka, stratified substratum, depressional (MN0641) typic haplaquolls.	Frigid	VP	+1–1.0	Apr–Jul	<6.0	None			2B3,3	Drained	4W
										Undrained	6W
Kuslina, thin surface (AK0406) histic pergelic cryaquepts.	Cryic	P	0–1.5	Jan–Dec	<6.0	None			2B3	All	6W
Lamoose, calcareous (MT1325) typic haplaquolls.	Frigid	P	0.5–2.0	Apr–Jul	<6.0	None–rare			2B3	0–2%	5W
Lamson, MAAT<50, mucky surface (NY0079) aeric haplaquepts.	Mesic	P,VP	+1–0.5	Dec–May	<6.0	None			2B3,3	All	5W
Langless (ID1756) typic calciaquolls	Mesic	P	1.0–1.5	Oct–Jun	<6.0	Frequent	V long	Oct–Jun	2B3,4	0–2%	5W
Las animas, poorly drained (CO3376) typic fluvaquents [1].	Mesic	P	1.0–3.0	May–Jul	<6.0	Occasional	Brief	May–Aug	2B3	High PE	4W
										Dry	6W
Laugenour, flooded (CA2485) aeric fluvaquents [1].	Thermic	P	1.0–2.0	Dec–Mar	<6.0	Frequent	V long	Dec–Mar	2B3,4	Map>16	4W
Leafriver, high PPT (MN0652) histic humaquepts.	Frigid	VP	+1–1.0	Nov–Jul	<6.0	None			2B3,3	Undrained	6W
										Drained	4W
Leaksville (NC0118) typic albaqualfs	Themic	P	0–1.0	Dec–Mar	<6.0	None			2B3	All	3W
Lemhi (ID1777) cumulic craquolls	Cryic	P	1.0–1.5	Apr–Jun	<6.0	Occasional	Brief	Jan–Jun	2B3	0–2%	4W
Lenape (DE0012) teric medisaprists	Mesic	VP	+1.–0.5	Jan–Dec	<6.0	Frequent	V brief	Jan–Dec	1,3	All	8W
Leon, depressional (FL0501) aeric haplaquods	Thermic	VP	+2–0	Jan–Sep	<6.0	None			2B3,3	All	7W
Leon, hydric (FL0093) aeric haplaquods	Thermic	P	0–0.5	Feb–Sep	<6.0	None			2B3	All	4W
Limerick, sandy substratum (VT0122) typic fluvaquents.	Mesic	P	0–1.5	Nov–May	<6.0	Frequent	Brief	Nov–May	2B3	Drained	3W
										Undrained	4W
Lindaas, moraine (ND0434) typic argiaquolls	Frigid	P	1.0–3.0	Oct–Jul	<6.0	None			2B3	All	2W
Lodgepole, ponded (NE0414) typic argiaquolls	Mesic	SP	+2–1.0	Mar–Jul	<6.0	None			2A,3	All	5W
Lofgren, ponded (CA2532) xeric epiaquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	None-Rare			2A,3	All	3S
Lofgren, ponded (CA2533) xeric epiaquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	Occasional	Long	Dec–Apr	2A,3	All	3S
Logan, commonly flooded (UT1872) typic calciaquolis [1].	Mesic	P	1.0–1.5	Apr–Jun	<6.0	Common	Brief	Mar–May	2B3	all	5W
Logan, commonly flooded (UT1879) typic calciaquolis [1].	Mesic	P	1.0–1.5	Apr–Jun	<6.0	Common	Brief	Mar–May	2B3	All	5W
Loxley, flooded (MI0669) typic brosaprists	Frigid	VP	+1–1.0	Nov–May	<6.0	Common	V long	Oct–Jun	1	All	7W
Lyonmounten (NY0438) typic humaquepts	Frigid	P	0–1.0	Nov–May	<6.0	None			2B3	Drained	3W
										Undrained	4W
Lyonmounten, stony (NY0439) typic humaquepts.	Frigid	P	0–1.0	Nov–May	<6.0	None			2B3	0–3% STV	5S
										3–8% STV	6S
										0–8% STX	7S
Madalin, gravelly substratum (NY0518) mollic ochraqualfs.	Mesic	P, VP	+.5–0	Nov–Jun	<6.0	None			2B3,3	SICL, SIL, SIC.	4W 5W
										MK	
Malin, rarely flooded (OR1495) fluvaquentic haplaquolls.	Mesic	P	+1–4.0	Mar–Jun	<6.0	Rare			2B3,3	All	4W
Manco (TX1266) aeric fluvaquents	Thermic	SP	1.0–1.5	Dec–May	<6.0	Frequent	Long	Nov–May	4	All	5W
Mannington (NJ0104) typic hydraquents	Mesic	VP	+1=0.5	Jan–Dec	<6.0	Frequent	V brief	Jan–Dec	2B3,3	All	8W
Mannixlee (MT1399) cumulic edoaquolls	Frigid	P	1.0–2.0	Apr–Aug	<6.0	None			2B3	0–4%	5W
Marcuse (CA0360) vertic haplaquepts	Themic	VP,P	1.0–3.0	Dec–Mar	<6.0	None-rare			2B3	Mod alkali	4W
										str alkali	6W
Marcuse, sodic overwash (CA1495) vertic haplaquepts.	Thermic	P	1.0–3.0	Dec–Mar	<6.0	None-rare			2B3	All	4W
Mariel (OR1515) sapric borohemists	Frigid	VP	+2.–0.5	Jan–Dec	<6.0				1,3	All	5W
Mrarkey, commonly flooded (MI0635) terric borosaprists	Frigid	VP	+1–1.0	Nov–Jun	<6.0	Common	Brief	Mar–Nov	1	All	6W
Markey, frequently flooded (MI0619) terric borosaprists.	Frigid	VP	0–2.0	Nov–Jun	<6.0	Common	Long	Mar–Jun	1	All	6W

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST—Continued

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Markey, MAAT<44 (MI0629) terric borosaprists.	Frigid	VP	+1–1.0	Nov–Jun	<6.0	None			1	Undrained	5W
Massena, poorly drained (NY0020) aeric haplaquepts [1].	Mesic	P	0–1.0	Nov–May	<6.0	None			2B3	Drained 0–8% drained. 8–15% 0–8% undrained.	4W 3W 3E 4W
Mattex (TX1268) aeric fluvaquents	Themic	SP	1.0–2.5	Dec–Mar	<6.0	Frequent	Long	Dec–Mar	4	All	5W
Mazie (ID1350) typic unbraqualfs	Frigid	VP	0–1.5	Feb–Jun	<6.0	Frequent	Long	Feb–May	2B3,4	All	5W
McCuligan (NE0411) mollic fluvaquents	Mesic	P	0–1.5	Nov–Apr	<6.0	Occasional	Brief	Feb–Jul	2B3	All	5W
McKenzie, clacareous (ND0384) typic argiaquallis.	Frigid	P	+.5–1.0	Mar–Jun	<6.0	None			2B3,3	All	4W
Meadowbrook, limestone substratum, flooded (FL0567) grossarenic ochraqualfs [1].	Themic	VP	0–0.5	June–Dec	>=6.0	Common	Long	Jul–Nov	2B1,4	All	5W
Merryville (LA0206) typic glossaqualfs	Thermic	P	0–1.5	Dec–Apr	<6.0	Rare-occasional.	Brief-long	Dec–Apr	2B3	Rare Occas	3W 4W
Millgrove, clayey substratum (OH0397) typic argiaquolls.	Mesic	VP	+1–1.0	Nov–May	<6.0	None			2B3,3	All	2W
Minter, ponded (AL0149) typic ochraqualfs	Thermic	P	+3–1.0	Jan–Dec	<6.0	None-frequent.	Brief-long	Dec–Apr	2B3,3,4	All	7W
Misteguay (MI0611) aeric haplaquepts	Mexic	P	0–1.0	Oct–May	<6.0	Rare-common.	Brief-V long.	Oct–Jun	2B3,4	Rare, drained. Freq, drained. Occas, drained. undrained.	3W 3W 3W 5W
Mollville, loamy substratum (TX1252) typic glossaqualfs.	Thermic	P	+.5–1.0	Nov–Jun	<6.0	None			2B3, 3	All	4W
Monarda, rubbly (ME0136) aeric haplaquepts	Frigid	P	0–1.5	Oct–Jun	<6.0	None			2B3	All	7S
Moteado (PR0201) humic hhaplquox	Isothermic	P	0–1.0	Jan–Dec	<6.0	None			2B3	3–15% 15–30%	7W 7E
Mullers (SC0147) aeric fluvaquents [2]	Thermic	SP	0.5–1.5	Nov–May	<6.0	Frequent	Long	Dec–Apr	4	Freq	6W
Muskego, flooded (WI0520) limnic medisaprists.	Mesic	VP	+3–1.5	Nov–Aug	<6.0	Common	Long	Apr–Jul	1,3,4	All	8W
Naconiche (TX1236) cumulic humaquepts	Thermic	VP	0–1.0	Jan–Dec	<6.0	Frequent	Long-V long.	Jan–Dec	2B3,4	All	7W
Neerdobe (CA2535) typic duraquerts	Thermic	SP	+1–3.5	Dec–Mar	<6.0	Rare			2A,3	All	3W
Neerdobe, overwash (CA2534) typic duraquerts.	Thermic	SP	+1–3.5	Dec–Mar	<6.0	None-Rare			2A,3	MAP>16	3W
Nestucca, wet (OR1581) aerid tropaquepts [1]	Isomesic	SP	0–0.5	Nov–Apr	<6.0	Frequent	Brief	Nov–Apr	2A	All	3W
Newlang (WI0472) humaqueptic psammaquents.	Mesic	P, VP	+1–1.0	Nov–Jun	<6.0	Occasional	Brief	Apr–Jun	2B3,3	Drained Undrained	4W 6W
Niblack (AK0368) lithic cryosaprists	Cryic	VP	0–1.0	Jan–Dec	>=6.0	None			1	0–45%	7W
Nielsville (MN0732) typic calciaquolls	Frigid	P	1.0–3.0	Apr–Jun	<6.0	None-Rare			2B3	Drained	2W
Niklavar (AK0357) typic cryaquents	Cryic	VP	1.0–2.0	Apr–Oct	<6.0	Occasional	Brief-long	Apr–Oct	2B3	0–3%	4W

Normal (IL0447) argiaquic argialbolls	Mesic		1.0–3.0	Mar–Jun	<6.0	None			2B3	0–2%	2W
										2–4%	
										2E	
Oaky (FL0108) mollic albaqualfs	Thermic	P	0.5–1.5	Mar–Sep	<6.0	None			2B3	None	4W
Okaw, nonflooded (IL0445) typic albaqualfs	Mesic	P,VP	+.5–1.0	Mar–Jun	<6.0	None			2B3,3	0–2%	3W
Olallie (OR1527) cumulic endoaquolls	Mesic	P	0–0.5	Mar–Jun	<6.0	Rare			2B3	All	3W
Overcup (AR0131) vertic albaqualfs	Thermic	P	0–1.0	Dec–Apr	<6.0	None			2B3	0–1%	3W
										1–3%	3E
										0–3%	3W
Ozamis, saline (OR1384) fluvaquentic hapaquolls [1].	Mesic	P	1.0–4.0	Mar–Jun	<6.0	Rare			2B3	All	5W
Palm, rubbly (PR0204) aeric tropaquepts	Isothermic	P	0–1.0	Jan–Dec	<6.0	None			2B3	All	7S
Pamlico, loamy substratum, ponded (NC0270) terric medisaprists.	Thermic	VP	+2.–0	Jan–Dec	<6.0	Rare			1,3	All	7W
Perrine, drained (FL0572) typic fluvaquents	Hyper-thermic.	P	0–1.0	Jun–Nov	<6.0	None			2B3	All	3W
Perry (LA0091) vertic haplaquepts	Thermic	P	0–2.0	Dec–Jun	<6.0	Common	Brief-V long.	Dec–Jun	2B3,4	Occas	4W
										Freq	5W
Pickford, mucky surface, (MI0606) aeric epiaquepts.	Frigid	P	+1–1.0	Nov–Jun	<6.0	None			2B3,3	All	5W
Pit, overwash (CA2440) chromic pelloxererts	Mesic	P	+5.–3.0	Dec–May	<6.0	Rare			2B3,3	All	5W
Pit, partially drained (CA2441) chromic pelloxererts.	Mesic	P	0.5–4.0	Dec–May	<6.0	Rare			2B3	All	4W
Pit, rarely flooded (CA2348) chromic pelloxererts.	Mesic	P	+.5–3.0	Dec–May	<6.0	Rare			2B3,3	All	5W
Ponycreek (WI0434) humaqueptic psammaquents.	Frigid	P,VP	+1.–1.0	Nov–Jun	<6.0	None			2B3,3	Undrained	6W
										Drained	6W
Poronto (MT1393) typic endoaquolls	Frigid	P	1.0–2.0	Apr–Aug	<6.0	None-rare			2B3	Mod temp	6W
Pottsburg, hydric (FL0098) grossarenic haploaquods [1].	Thermic	P	0–0.5	Feb–Sep	>=6.0	None-occasional.	V brief	Feb–Sep	2B1	All	4W
Prieto (PR0206) typic tropaquepts	Isohyperthermic.	P	0–1.0	Jan–Dec	<6.0	None			2B3	3–15% CB.	7W
										15–75% CB.	7E
										CBV	7S
Racing (OR1512) typic cryaquods	Cryic	P	+1.–1.0	Jan–Dec	<6.0	Occasional	Brief	Nov–Apr	2B3,3	All	6W
Rawhide (FL0110) typic argiaquolls	Thermic	VP	+2–0	Jun–Apr	<6.0	None-common.	Long	Jun–Apr	2B3,4	All	7W
Rawhide, limestone substratum (FL0113) typic argiaquolls.	Thermic	VP	+2.–0	Jun–Apr	<6.0	None-common.	Long	Jun–Apr	2B3,3,4	All	7W
Raynham, calcareous substratum (VT0121) aeric haplaquepts.	Mesic	P,SP	0–2.0	Nov–May	<6.0	None-rare			2B3	Drained	3W
										Undrained	4W
Reese, none-rarely flooded (NV2566) aeric halaquepts [1].	Mesic	P	1.0–3.0	Mar–Jul	<6.0	None-rare			2B3	All	6S
Reese, ponded (NV2567) aeric halaquepts [1]	Mesic	P	+1–2.0	Nov–Aug	<6.0	Rare			2B3,3	All	6W
Reis (MN0739) typic calciaquolls	Frigid	P	1.0–3.0	Apr–Jun	<6.0	None			2B3	C, SIC, SICL drained.	2W
											2W
										CL, L, SC drained.	3W
										C, SIC, SICL undrained.	
										CL, L, SCL undrained	3W

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST—Continued

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Rodney (IA0605) mollic fluvaquents	Mesic	P	1.0–3.0	Nov–Jul	<6.0	Rare-occasional.	Brief	Feb–Nov	2B3	Rare	1
										Occas	2W
Roscommon, nonponded (MI0422) mollic psammaquents.	Frigid	P	0–1.0	Sep–Jun	>=6.0	None			2B2	All	4W
Rubylake (NV2645) mollic fluvaquents [1]	Mesic	P	1.0–2.0	Mar–Jun	<6.0	Rare			2B3	All	5W
Rutlege (SC0148) typic humaquepts	Thermic	VP	0–0.5	Dec–May	>=6.0	None-common.	Brief	Dec–May	2B2	Drained	4W
										Undrained	5W
Rutlege, ponded (SC0149) typic humaquepts	Thermic	VP	+2–1.0	Dec–May	>=6.0	None			2B2.3	Drained	4W
										Undrained	7W
Sabattis (NY0401) histic humaquepts	Frigid	P, VP	0–1.0	Nov–May	<6.0	None			2B3	Undrained	4W
										Drained	3W
Sabittis, Stony (NY0405) histic humaquepts	Frigid	P,VP	0–1.0	Nov–May	<6.0	None			2B3	STV, BYV	6S
										STX, BYX	7S
Sahkahtay (MN0669) mollic ochraqualfs	Frigid	P	0.5–1.5	Apr–Jun	<6.0	None			2B3	Drained	3W
										Undrained	4W
Sailboat, cool, (CA2478) aquic xerofluents [1]	Thermic	SP	3.0–5.0	Dec–Mar	<6.0	Frequent	Long	Dec–Mar	4	Map>16	4W
Samsula, flooded (FL0112) terric medisaprists	Hyper-thermic.	VP	0–0.5	Mar–Sep	>=6.0	Frequent	Brief-long		1	All	7W
Sapelo, hydric (GA0100) ultic haplaquods [1]	Thermic	P	0–0.5	Nov–Apr	<6.0	None			2B3	All	4W
Satilla (GA0067) thapto-histic fluvaquents	Thermic	VP	0–1.5	Nov–May	<6.0	None-common.	Long	Dec–Apr	2B3,4	None, rare	4W
										Freq	7W
Satatton (TX0696) typic salorthids	Hyper-thermic.	P	0–1.5	Jan–Dec	>=6.0	Frequent	V Brief	Aug–May	2B1	All	8S
Scamman (WA0060) aquic palexeralfs	Mesic	SP	0–1.5	Nov–Apr	<6.0	None			2A	0–8%	3W
										8–20%	3E
										20–30%	4E
										30–40%	6E
										40+%	7E
Semiahmoo, partially drained (WA1987) typic medisaprists.	Mesic	P	+.5–1.0	Dec–Apr	<6.0	None			1,3	All	3W
Settlement, stratified substratum (NV5407) aeric halaquepts.	Mesic	P	1.0–2.5	Feb–Jun	<6.0	Frequent	Long	Mar–Jun	2B3,4	All	7W
Settlemeyer, wet (NV2677) fluvaquentic haplaquolls [1].	Mesic	P	1.0–2.5	Feb–Jul	<6.0	Rare			2B3	All	6W
Shigh (OR1484) aeric albaquults	Isomesic	P	0.5–1.0	Nov–Apr	<6.0	None			2B3	All	6E
Shired (FL0138) typic argiaquolls	Thermic	VP	+2.–0	Feb–Oct	<6.0				2B3,3	All	7W
Spot (M10620) typic endoaquods	Frigid	P	+1–1.0	Sep–Jun	<6.0	None			2B3,3	All	5W
Springerton (IL0428) typic haplaquolls	Mesic	P	+.5–2.0	Feb–Jun	<6.0	None-rare			2B3,3	All	2W
Stallard (WA1860) duric endoaquolls	Mesic	P	+2.–4.0	Dec–Jul	<6.0	Frequent	Long–V long.	Feb–Jun	2B3,3,4	0–3%	5W
Steed, loamy (UT1902) entic haploxerolls [1]	Mesic	W	>4.0	Apr–Jun	<6.0	Frequent	Long	Mar–Jun	4	L	6S
										CB–L	6S
Stirum, map 13–17 (ND0430) typic natraquolls	Frigid	P	1.0–3.0	Apr–Jul	<6.0	None-common.	Long	Apr–Jun	2B3,4	0–3%	6S
Stockton, cool (CA2482) typic pelloxererts [1]	Thermic	SP	+1–1.0	Dec–Mar	<6.0	Occasional	Brief	Jan–Mar	2A,3	Map>16	3W
Stockton, map>16 (CA2481) typic pelloxererts [1]	Thermic	SP	+1–1.0	Dec–Mar	<6.0	None-rare			2A,3	Map>16	3W

Stockton, ponded (CA2469) typic pelloxererts [1]	Thermic	SP	+1–0	Nov–Mar	<6.0	Occasional	Long	Dec–Apr	2A,3	All	3S
Stockton, ponded, protected (CA2468) typic pelloxererts [1].	Thermic	SP	+1–0	Nov–Mar	<6.0	None-rare			2A,3	All	3S
Strathcona (MN0633) typic calciaquolls	Frigid	P	1.0–3.0	Apr–Jul	<6.0	None			2B3	Drained	2W
										Undrained	4W
Strathcona depressional (MN0634) typic calciaquolls.	Frigid	VP	+1.–1.0	Jan–Dec	<6.0	None			2B3,3	Drained	3W
										Undrained	6W
Strathcona, very wet (MN0696) typic calciaquolls.	Frigid	VP	+0.–1.0	Jan–Dec	<6.0	None			2B3,3	All	6W
Swedegrove (MN0673) typic haplaquolls	Mesic	P	1.0–3.0	Nov–Jul	<6.0	None			2B3	All	2W
Talmoon (MN0592) mollic ochraqualfs	Frigid	P	1.0–3.0	Nov–Jun	<6.0	None			2B3	All	2W
Talmoon stratified substratum (MN0664) mollic ochraqualfs.	Frigid	P	1.0–3.0	Nov–Jun	<6.0	None			2B3	All	2W
Tanacross (AK0383) histic pergelic cryaquepts	Cryic	P	0–1.0	Jan–Dec	<6.0	None-rare			2B3	0–3%	5W
Tennille (FL0084) lithic psammaquents	Thermic	P	0.5–1.5	Mar–Sep	>=6.0	None			2B2	All	4W
Tennille hydric (FL0088) lithic psammaquents	Thermic	P	0–0.5	Jun–Mar	>=6.0	None-common.	Brief	Jan–Mar	2B2	None, rare common.	6W
Tepete, loamy subsoil (ID1832) terric borohemists.	Frigid	VP	+5–1.5	Jan–Dec	<6.0	None-common.	Brief	May–Jul	1,3	All	5W
Tetlin (AK0381) pergelic cryaquepts	Cryic	P	0–3.5	Jan–Dec	<6.0	None			2B3	3–7%	5W
										7–30%	6E
										30–50%	7E
Tiocano (TX1254) udic pellusterts	Hyper-thermic	SP	+1 –2.0	Sep–May	<6.0	None			2A,3	All	4W
Toba (NV2658) aquic calciorthids [2]	Mesic	P	1.5–2.0	Mar–Jun	<6.0	Frequent	Long	Mar–Jun	4	Freq	5W
Totness (SC0144) typic psammaquents	Thermic	P	0–1.0	Nov–Apr	>=6.0	Frequent	Brief-long	Nov–May	2B2,4	All	6W
Toppenish, cool (WA2006) fluvaquentic haplaquolls [1 2].	Mesic	SP	1.0–2.0	Nov–May	<6.0	Frequent	Long	Nov–Apr	4	Freq	6W
Tughill, bouldery (NY0431) histic humaquepts	Frigid	VP	+1–0.5	Nov–Jun	<6.0	None			2B3,3	All	7S
Turrah (MT0625) cumulic haplaquolls	Frigid	P	1.0–3.0	May–Jul	<6.0	None-rare			2B3	All	5W
Uncompahgre (CO0445) fluvaquentic haplaquolls [3].	Mesic	SP,P	0.5–1.5	Apr–Jun	<6.0	Occasional	Brief	Apr–Jun	2B3	All	6W
Uniongrove (MN0674) typic haplaquolls	Mesic	P	1.0–3.0	Nov–Jul	<6.0	None			2B3	All	2W
Vasquez (CO0051) humic pergelic cryaquepts [3].	Cryic	SP,P	0.5–2.0	Mar–Jul	<6.0	None			2B3	0.5%	5W
										5–30%	6W
Vassalboro (ME0142) typic borofibrists	Frigid	VP	0–0.5	Sep–Jul	<6.0	None-rare			1	All	8W
Vastine, gravelly substratum (CO7281) typic endoaquolls.	Frigid	P	1.0–2.0	Jun–Aug	<6.0	Common	Brief	May–Jul	2B3	0–5%	5S
Vastine, MAP>16 (CO3293) typic endoaquolls	Frigid	P	1.0–3.0	Mar–May	<6.0	Rare			2B3	All	4C
Victine, depressional (TX1261) udic pellusterts [1].	Hyper-thermic.	SP	+.5–0.5	Oct–Apr	<6.0	None			2A,3	All	6S
Villmeagher (MT1464) typic endoaquepts	Frigid	P	1.0–2.0	Apr–Jul	<6.0	Occasional	Brief	May–Jun	2B3	All	6W
Villsprings (MT1465) typic endoaquepts	Frigid	P	1.0–2.0	Apr–Jul	<6.0	Occasional	Brief	May–Jun	2B3	All	6W
Wakeley (MI0646) aeric epiaquents	Frigid	P,VP	+1–1.0	Oct–May	>=6.0	None			2B2,3	All	5W
Waldron, loamy substratum (MO0213) aeric fluvaquents [2].	Mesic	SP	1.0–3.0	Nov–May	<6.0	Frequent	Long	Dec–May	4	Freq, long	5W
Wanser, moderately wet (WA2046) typic psammaquents [1].	Mesic	P	0.5–1.0	May–Nov	>=6.0	Rare-occasional.	Brief	Jan–May	2B2	All	6W
Wareham (MA0052) humaqueptic psammaquents [3].	Mesic	SP,P	0.5–1.5	Sep–Jun	<=6.0	None			2B2	All	3W
Warman (MN0639) typic haplaquolls	Frigid	P	1.0–2.0	Apr–Jun	<6.0	None			2B3	All	3W
Waucedah, clayey substratum (MI0485) histic humaquepts.	Frigid	P,VP	+2–1.0	Jan–Dec	>6.0	Frequent	Brief-V long.	Mar–May	2B3,3,4	All	5W
Wealthwood (MN0680) arenic ochraqualfs	Frigid	P	0.5–2.0	Apr–Jun	<=6.0	None			2B2	All	4W
Wekoda, flooded (CA2456) aquic chromoxererts [1 2].	Thermic	P	1.5–3.0	Dec–Apr	<6.0	Frequent	Long	Dec–Apr	4	Freq	4W
Welch, ponded (NV2572) cumulic haplaquolls [1].	Frigid	VP	+1–1.5	Nov–Jun	<6.0	None			2B3,3	All	5W

SOILS ON THE JANUARY 94 HYDRIC LIST, BUT NOT ON THE OCTOBER 91 HYDRIC LIST—Continued

[The "Hydric criteria number" column indicates what caused the soil to be included in the Hydric list. See the "Criteria for Hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Wickiup (OR0200) aquic cryorthents	Cryic	P	0–2.5	Mar–Oct	>=6.0	None			2B2	All	6W
Wizard (OR1331) aquic vitrixerands	Frigid	SP	0–2.0	Apr–Jun	<6.0	None			2A	All	6E
Watab (MN0284) arenic ochraqualfs	Frigid	P	0.5–2.0	Mar–Jun	>=6.0	None			2B2	All	3W
Wheatbelt (MT1353) udorthentic pellusterts	Frigid	P	+.5–1.0	Apr–Sep	<6.0	None			2B3,3	0–1%	6W
Yearian (ID1531) typic haplaquolls	Frigid	P	0.5–1.5	Apr–Jun	<6.0	Occasional	Brief	Apr–Jun	2B3	0–4%	5W
Yearian, sloping (ID1800) typic haplaquolls	Frigid	P	1.0–1.5	Jan–Jun	<6.0	None			2B3	All	5W
Yellowjacket (FL0134) terric medisaprists	Thermic	VP	0–0.5	Jan–Dec	>=6.0	Frequent	Long	Jan–Mar	1,4	All	7W
Yellowjacket, limestone substratum (FL0136) terric medisaprists.	Thermic	VP	+2–0	Feb–Oct	>=6.0	None			1,3	All	7W
Yogaville (VA0379) fluvaquentic haplaquolls	Thermic	P	0–1.0	Dec–May	<6.0	Common	V Brief-brief.	Dec–May	2B3	Occas, drained.	2W
										Occas, undrained.	4W
										Freq, drained.	3W
										Freq, undrained	6W
Zeegee (ID1697) typic haplaquolls	Frigid	P	0.5–1.5	Mar–Jul	<6.0	Occasional	Brief	Apr–Jun	2B3	All	5W
Zeph (ID1780) aeric fluvaquents	Frigid	P	0.5–1.5	Mar–Jun	<6.0	Occasional	Brief	Jan–Jun	2B3	All	4W
Zipp, loamy substratum, flooded (IN0550) typic haplaquepts.	Mesic	VP	+.5–1.0	Dec–May	<6.0	Frequent	Brief	Dec–May	2B3,3	All	3W

[1] Some soil interpretation records representing phases of this series are not hydric.
[2] Some phases of this soil are not frequently flooded of long duration.
[3] Some drainage classes for this soil are not hydric.

SOILS ON THE OCTOBER 91 HYDRIC LIST, BUT NOT ON THE JANUARY 93 HYDRIC LIST

[The "Hydric criteria number" column indicates what caused the soil to be included in the hydric list. See the "Criteria for hydric soils" to determine the meaning of this column. (Revised January 31, 1993)]

Series and subgroup	Temperature	Drainage class	High water table		Perm. within 20 inches	Flooding			Hydric criteria No.	Capability	
			Depth	Months		Frequency	Duration	Months		Critical phase criteria	Class and subclass
Afton, drained (IA0130) cumulic endoaquolls	Mesic	P	3.0–4.0	Nov–Jul	<6.0	Common	V brief	Feb–Nov		All	2W
Altoona (WI0263)[4]											
Aufco (TX0609) aquic ustochrepts	Thermic	SP	2.0–3.5	Dec–Apr	<6.0	Frequent	Brief	Nov–May		All	5W
Blend, drained (IA0104) fluvaquentic endoaquolls[1]	Mesic	P	3.0–4.0	Nov–Jul	<6.0	Rare				Sic	3W
										Sicl	3W
Bivans (FL0378) typic albaqualfs	Hyperthermic.	SP	1.0–1.5	Jun–Sep	<6.0	None				0–5%	3W
										5–8%	4W
										8–12%	6W
Boulogne (FL0498) typic haplaquods	Thermic	P	0.5–1.5	Mar–Sep	<6.0	None				All	3W

Calcousta, drained (IA0312) typic endoaquolls	Mesic	VP	2.0–3.0	Nov–Jul	<6.0	None				Drained	3W
Chaires (FL0251) alfic haplaquods	Thermic	P	0.5–1.5	Mar–Sep	>=6.0	None				All	4W
Dusler (MN0160) aeric glossaqualfs	Frigid	SP	1.5–3.0	Oct–Jun	<6.0	None				All	2W
Flemington (FL0017) typic albaqualfs	Hyper-thermic.	SP	1.0–1.5	Jun–Sep	<6.0	None				0–5%	3W
										5–8%	4W
										8–12%	6W
Fordum, gravelly substratum (WI0470)[4]											
Fredon (NJ0038) aeric haplaquepts	Mesic	SP	0.5–1.5	Oct–Jun	<6.0	None-occasional.	Brief	Jan–Apr		0–3%	3W
										3–8%	3W
Gansner, ponded[4] (CA1438)											
Holillipah (CA1304) typic xerofluvents	Thermic	SE	>6.0		<6.0	Rare				Rare, SL	3S
										Rare, LS	4S
Lynne (FL0009) ultic haplaquods	Hyper-thermic.	P	0.5–1.5	Jul–Sep	>=6.0	None				All	3W
Newson, mucky surface (WI0002)[4]											
Oakhurst (TX0896) vertic albaqualfs	Thermic	MW	>6.0		<6.0	None				1–3%	3E
										3–5%	4E
										5–8%	6E
Olustee (FL0048) ultic haplaquods	Thermic	P	0.5–1.5	Mar–Sep	<6.0	None				All	3W
Pledger (TX0304) typic pelluderts	Thermic	MW	>6.0		<6.0	Rare-common.	Brief	Jan–Dec		Rare	2W
										Freq	5W
										Occas	2W
Prebish, stony[4] (MN0563)											
Ravendale (CA1027) entic chromoxererts	Mesic	MW	>6.0		<6.0	Rare-occasional.	Brief-long	Jan–Apr		0–2%	6S
Rutlege (MD0003)											
Rutlege, ponded (MD0102)											
Sapelo (GA0049) ultic haplaquods	Thermic	SP	0.5–1.5	Nov–Apr	<6.0	None				All	3W
Saugatuck (MI0045) aeric haplaquods	Mesic	SP	0.5–2.0	Nov–May	<6.0	None				All	4W
Talquin (FL0248) entic haplaquods	Thermic	P	0.5–1.5	Mar–Sep	>=6.0	None				All	4W
Tobosa, depressional (TX1158) typic haplusterts	Thermic	W	+.5–0.5	Jul–Oct	<6.0	None				All	6W
Tooles (FL0468) arenic albaqualfs	Thermic	P	0.5–1.0	Feb–Sep	>=6.0	None				All	3W
Verhalen, depressional (TX1029) typic haplotorrerts	Thermic	MW	+.5–2.0	Jul–Oct	<6.0	None				All	6W
Victine, (TX0283) udic pellusterts	Hyper-thermic.	SP	0.5–0.5	Oct–Apr	<6.0	None				All	4S
Zilaboy (TX0753) oxyaquic hapluderts	Thermic	MW	0–3.0	Oct–May	<6.0	Frequent	Brief	Sep–May		Freq	5W

[1] Some soil interpretation records representing phases of this series are not hydric.
[2] Some phases of this soil are not frequently flooded of long duration.
[3] Some drainage classes for this soil are not hydric.
[4] This soil record has been removed from the database since it last appeared in the hydric list.

[FR Doc. 94–16835 Filed 7–12–94; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Re-Establishment

Having determined that the committee's work continues to be in the public interest in connection with the performance of duties imposed on the Department by law, the Secretary of Commerce re-established the U.S. Automotive Parts Advisory Committee (APAC). The re-establishment of the committee is in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Parts 101–6.10 (1990), Federal Advisory Committee Management Rule.

The APAC was established by the Secretary of Commerce on June 6, 1989, to advise Department of Commerce officials on issues related to sales of U.S.-made auto parts to Japanese markets. Authority for the committee is contained in 15 U.S.C. 4704, as amended by section 510 of Public Law 103–236 (April 29, 1994).

The committee functions as an advisory body in accordance with the Federal Advisory Committee Act. Additional information may be obtained from Stuart Keitz, U.S. Department of Commerce, International Trade Administration, (202) 482–0719.

Dated: July 7, 1994.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 94–16974 Filed 7–12–94; 8:45 am]
BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Department of the Army

Patents Available for Licensing

AGENCY: U.S. Army Aviation and Troop Command, DOD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patents. Any licenses granted shall comply with 35 USC 209 and 37 CFR Part 404.

Issued patent	Title	Issue date
5,263,846	Self-Actuated Rotor System	11/23/93
5,255,875	Protective Hardside Covers for Surfaces	10/26/93

ADDRESSES: Intellectual Property Law Branch, U.S. Army Aviation and Troop Command, 4300 Goodfellow Blvd., St. Louis, Missouri 63120–1798.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Hamming, patent Attorney, (314) 263–9150 or DSN 693–9150.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–16973 Filed 7–12–94; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Award to Babcock and Wilcox (Grant)

AGENCY: Morgantown Energy Technology Center (METC), U. S. 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), (D) the DOE, Morgantown Energy Technology Center, gives notice of its plans to award a nine month Grant to Babcock and Wilcox, Barberton, Ohio in the amount of $200,000. DOE will fund $100,000 with Babcock and Wilcox sharing the remaining $100,000.

FOR FURTHER INFORMATION CONTACT: Crystal A. Sharp, IO7, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26507–0880, Telephone (304) 291–4386, Procurement Request No. 21–94MC31172.000.

SUPPLEMENTARY INFORMATION: The participant will operate an experimental Diesel Coal Combined Cycle (DCCC) facility which will demonstrate an alternative process to burn fossil fuels in an economical and environmentally responsible way. The proposed coal technology will improve efficiency and reduce emissions from coal-fired power plants.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–16984 Filed 7–12–94; 8:45 am]
BILLING CODE 6450–01–P

Financial Assistance Award: Materials Technologies of Virginia, Inc. (MATVA)

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Materials Technologies of Virginia, Inc. (MATVA) under Grant Number DE–FG01–94CE15599. The proposed grant will provide funding in the estimated amount of $155,728 (DOE contributing $99,862 and MATVA contributing $55,866) for MATVA to use a new whisker growing technique to make and test a high temperature heat exchanger prototype. The subject invention, "An In-Situ Whisker Reinforced Glass Ceramic" is a patented process for creating glass ceramic materials with acicular (needle-shaped) titanium oxide reinforcing whiskers grown in-site in one step. This new process is an enabling technology that could permit rapid and inexpensive production of titanium oxide whisker reinforced materials at much lower energy, labor, and health related costs.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(f) that the application submitted by the Materials Technologies of Virginia, Inc., is meritorious based on the general evaluation required by 10 CFR 600.14(d) and that the proposed project represents a unique device for conserving energy by greatly reducing energy costs during fabrication, and by making superior materials available for use in more efficient devices such as the heat exchangers for construction under this project which will be submitted as prototypes for third party testing. The use of this device has a strong possibility for future reductions in the Nation's energy consumption. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the program, the Energy-Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive

solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Linda S. Sapp, HR–531.23, 1000 Independence Avenue, SW., Washington, DC 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Issued in Washington, DC on June 23, 1994.

Scott Sheffield,

Director, Headquarters Operation Division B, Office of Placement and Administration.

[FR Doc. 94–16985 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: MCR Enterprises

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to MCR Enterprises under Grant Number DE–FG01–94CE15609. The proposed grant will provide funding in the estimated amount of $99,500 for MCR Enterprise to further develop alternate pipe cutting methods by the Radial Cutting Torch (RCT), a patented pyrotechnic cutter, for use in downhole tubular cutting operations in the petroleum industry. This tool can cut stainless steel, exotic alloy pipes, different pipe sizes and has the potential to operate in high-pressure and high-temperature environments, even in the presence of drilling mud.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(f) that the application submitted by the MCR Enterprises is meritorious based on the general evaluation required by 10 CFR 600.14(d) and that the proposed project represents a unique device for reducing the overall cost of pipe cutting. The use of this device has the potential to provide a cleaner cut which does not require subsequent deburring or machining steps; does not damage the exterior pipe; is reliable and provides a high level of safety. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the program, the Energy-Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Linda S. Sapp, HR–531.23, 1000 Independence Avenue, SW., Washington, DC 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Issued in Washington, DC on June 30, 1994.

Richard G. Lewis,

Contracting Officer, Headquarters Operation Division B, Office of Placement and Administration.

[FR Doc. 94–16986 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–M

Pittsburgh Energy Technology Center; Noncompetitive Financial Assistance Award

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of Noncompetitive Financial Assistance Grant Award to the University of Arizona.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2)(i) under criteria (a), that it intends to award a noncompetitive financial assistance (Grant) to the University of Arizona. This award is for continuation of their research effort entitled "Regeneration of FGD Waste Liquors: Production of Ammonium and Postassium Sulfate Mixed Fertilizer".

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Cynthia Y. Mitchell, Contract Specialist (412) 892–4862.

SUPPLEMENTARY INFORMATION:

Grant Number: DE–FG22–93PC92582

Title of Research Effort

"Regeneration of FGD Waste Liquors: Production of Ammonium and Potassium Sulfate Mixed Fertilizer."

Awardee: University of Arizona.

Term of Assistance Effort: Twelve (12) months.

Grant Estimated Total Value: $73,899.

Objective: Based upon the authority of 10 CFR 600.7(b)(2), the objective of this grant is for Arizona University to continue research in the regeneration process for treating the waste scrubbing liquor produced by a thiosorbic lime SO pilot tests and to produce an ammonia and potassium sulfate mixed fertilizer product. This process involves the precipitation of the N–S compounds followed by their hydrolysis. The magnesium wet scrubbing process is presently being developed for the simultaneous removal of SO–2 and NO_x from the flue gas produced by a coal-fired power plant. In the course of scrubbing, nitrogen-sulfur (N–S) compounds accumulate and degrade the scrubbing liquor. The primary objective of this project is to develop a regeneration process through which the N–S compounds in the scrubbing liquors are removed and then converted to a marketable byproduct. The proposed work is considered to be relevant to the DOE mission in that the program will provide a mechanism for communication, interaction and research between DOE and Arizona University in the continuous process for the regeneration of waste scrubber liquors from the combined SO_x–NO_x scrubbing systems. The development of this technology would assist utilities in complying with the 1990 Clean Air Act, while still encouraging and enhancing the use of coal, which is a major goal of the DOE Flue Gas Cleanup program.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 94–16987 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–M

Inertial Confinement Fusion Advisory Committee Defense/Programs; Partially Closed Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Inertial Confinement Fusion Advisory Committee/Defense Programs.

Date and Time: Agenda Is Subject To Revision

Tuesday, August 2, 1994, 3:00 p.m.–6:15 p.m.—Open

Tuesday, August 2, 1994, 7:45 p.m.–9:30 p.m.—Closed

Wednesday, August 3, 1994, 8:30 a.m.–5:30 p.m.—Closed

Thursday, August 4, 1994, 8:30 a.m.–5:00 p.m.—Closed

Thursday, August 4, 1994, 5:00 p.m.–5:30 p.m.—Open

Place: Los Alamos National Laboratory, Los Alamos, New Mexico Technical Area 3; Building 207; Room 216.

Contact: Marshall M. Sluyter, Designated Federal Officer, Office of Research and Inertial Fusion (DP–11), Office of Defense Programs, Washington, DC 20585, Telephone: (301) 903–3345.

Persons wishing to attend the meeting should submit their names to Jean Stark at the Los Alamos National Laboratory, (505) 667–6574, on or before July 25, 1994, to obtain visitor passes to the meeting room.

Purpose of the Committee: To provide advice and guidance to the Assistant Secretary for Defense Programs on both technical and management aspects of the Inertial Confinement Fusion program.

Purpose of the Meeting: To assess the technical applicability and readiness of the Inertial Confinement Fusion program to support the Defense Programs Stockpile Stewardship Program Strategy and the National Security Strategic Plan. Also, to identify and evaluate the significance and the relative importance of each of the ICF program elements to the overall Inertial Confinement Fusion program, to the National Security Strategic Plan, and to the Stockpile Stewardship Program.

Tentative Agenda: Subject to Revision

August 2, 1994

3:00 p.m.—LANL Welcoming Remarks
3:30 p.m.—Introduction and Summary of Recent Events
4:00 p.m.—Stockpile Stewardship Program Strategy and National Security Strategic Plan
5:00 p.m.—ICF Program Mission, Priorities, and Objectives
5:45 p.m.—Public Comment Opportunity
7:45 p.m.—Closed Meeting

August 3, 1994

8:30 a.m.—Closed Meeting

August 4, 1994

8:30 a.m.—Closed Meeting
5:00 p.m.—Committee Discussions, Wrap-up, and Adjournment

Open to the Public: On August 2, 1994, from 3:00 p.m. to 6:15 p.m., and on August 4, 1994, from 5:00 p.m. until adjournment, the meeting is open to the public. The Chairman of the Committee is empowered to guide the meeting in a manner that will, in the Chairman's judgement, facilitate the orderly conduct of business.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number shown above. Requests must be received before 3:00 p.m. (eastern standard time) Thursday, July 28, 1994. Reasonable provisions will be made to include the presentation during the public comment period. Oral presenters are asked to provide 25 copies of their statements at the time of their presentations.

Written statements pertaining to agenda items may also be submitted prior to the meeting. Written statements must be received by the Designated Federal Officer at the address shown above before 3:00 p.m. (eastern standard time) Thursday, July 28, 1994, to assure they are considered by the committee during the meeting.

Closed Meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (title 5, United States Code, App. 2), section 7234(b), title 42, United States Code, and section 552b(c)(1), title 5, United States Code, the portions of the meeting from 7:45 p.m. until 9:30 p.m. on August 2, 1994; from 8:30 a.m. until 5:30 p.m. on August 3, 1994; and from 8:30 a.m. until 5:00 p.m. on August 4, 1994, will be closed to the public in the interest of national security.

Minutes: Minutes of the open portions of the meeting will be available for public view and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 8, 1994.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 94–16988 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee for National Electric and Magnetic Fields Research and Public Information Dissemination Program

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of a meeting of the National Electric and Magnetic Fields Advisory Committee.

DATES: Monday, August 2, 1994: 1:30 p.m.–4:30 p.m.; Tuesday, August 3, 1994: 9:00 a.m.–4:30 p.m.

ADDRESSES: National Institute for Environmental Health Sciences, Building 101, South Campus, 111 Alexander Avenue, Research Triangle Park NC, 27709.

FOR FURTHER INFORMATION CONTACT: Robert Brewer, Director, Utility Systems Division, EE–141, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2828.

SUPPLEMENTARY INFORMATION: The National Electric and Magnetic Fields Advisory Committee advises the Department of Energy and the National Institute of Environmental Health Sciences on the design and implementation of a five-year, national electric and magnetic fields research and public information dissemination program. The Secretary of Energy, pursuant to Section 2118 of the Energy Policy Act of 1992, P.L. 102–486, has overall responsibility for establishing the national program which includes health effects research, development of technologies to assess and manage exposures, and dissemination of information.

Tentative Agenda

Tuesday, August 2, 1994

10:30 a.m.
Welcome and introductions
Review of minutes for 3/2/94 meeting
10:45 a.m
Presentation and discussion of the Interagency Committee Research Agenda for the RAPID program
Presentation and discussion of the Interagency Committee Coordination Guidelines for the RAPID program
12:00 noon Lunch
1:30 p.m.
Presentation and discussion of Implementation Plans for the RAPID program
3:00 p.m. Break
3:30 p.m. Further discussions
5:00 p.m. Adjourn

Wednesday, August 3, 1994

8:30 a.m.
Report and discussion on NIEHS grants for the RAPID program
10:30 a.m. Break
10:45 a.m.
Report on establishment of Replication Facilities
Further discussions
12:30 noon Open time for public comments
1:30 p.m. Adjourn

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Robert Brewer at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Depending on the number of requests, comments may be limited to five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcript and Minutes: A transcript and minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue,

SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Copies of the minutes will also be available by request.

Issued at Washington, DC, on July 8, 1994.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 94–16989 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 94–42–NG]

Pennzoil Gas Marketing Company, Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada and Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Pennzoil Gas Marketing Company blanket authorization to import and export up to a combined total of 80 billion cubic feet (Bcf) of natural gas from and to Canada, and to import and export up to a combined total of 80 Bcf of natural gas from and to Mexico, over a two-year term beginning on the date of first import or export.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 27, 1994.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–16990 Filed 7–12–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 5946–007 Massachusetts]

University of Massachusetts, Lowell; Notice of Availability of Environmental Assessment

July 7, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed an application for surrender of license for the Lowell Atlantic Hydroelectric Project, No. 5946–007. The Lowell Atlantic Hydroelectric Project is located on the Lowell Canal System, off the Merrimack River in Middlesex County, Massachusetts. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application for surrender of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16920 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–625–000, et al.]

El Paso Natural Gas Company, et al.; Natural Gas Certificate Filings

July 6, 1994.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

Docket No. CP94–625–000

Take notice that on June 23, 1994, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed a request with the Commission in Docket No. CP94–625–000 pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a delivery point to provide firm transportation and delivery of natural gas to Southwest Gas Corporation (Southwest) under El Paso's blanket certificate issued in Docket Nos. CP82–435–000 and CP88–433–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

El Paso proposes to construct and operate a delivery point on the 20" O.D. Maricopa County Line of its North System Mainline to provide firm transportation of natural gas to Southwest. El Paso states that Southwest would then deliver the gas to the residential and commercial customers located in the Garden Lakes area of Maricopa County, Arizona. El Paso estimates the cost of the proposed delivery point would be $93,400 and states that Southwest has agreed to reimburse El Paso for the expenses.

El Paso reports that it has sufficient capacity to accomplish the proposed deliveries without detriment to its other existing customers.

Comment date: August 22, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Newfield Exploration Company

Docket No. CP94–636–000

Take notice that on June 30, 1994, Newfield Exploration Company (Newfield), 363 N. Sam Houston Pkwy E., Suite 2020, Houston, Texas 77060, filed a petition for declaratory order in Docket No. CP94–636–000 requesting that the Commission declare that, following Newfield's purchase of certain offshore facilities from Texas Eastern Transmission Corporation (Texas Eastern), that those facilities are gathering facilities exempt from the Commission's Regulations pursuant to Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Newfield states that the facilities consist of one currently-certificated supply line owned by Texas Eastern along with an associated metering facility. It is indicated that the supply line consists of a 4.8 mile, 8-inch lateral that connects Newfield's oil and gas production platform in the Eugene Island Block 182–A area to the facilities of Sea Robin Pipeline Company (Sea Robin) in Eugene Island Block 197 in offshore Louisiana. It is indicated that on June 16, 1993, Texas Eastern ceased purchasing the Newfield production gathered by the facilities to be purchased, but did continue transporting Newfield's production through the facilities for redelivery to the transmission facilities of Sea Robin.

Newfield asserts that the primary function of the facilities to be acquired is gathering as set forth in *Farmland Industries, Inc.*, 23 FERC ¶ 61,023 (1983), as later modified by *Amerada Hess Corp., et al*, 52 FERC ¶ 61,268 (1990), (*Amerada Hess*). It is indicated that under that test the Commission applies six criteria to determine the jurisdictional status of a facility: (1) the diameter and length of a facility; (2) the extension of facilities beyond a central point in the field; (3) the geographic configuration of the system; (4) the location of compressors and processing plants; (5) the location of wells along all or part of the facility; and (6) the operating pressure of the line. In *Amerada Hess*, the Commission indicated that it would consider other factors, in addition to the *Farmland* criteria, especially for offshore facilities, including the changing technical and geographic nature of exploration and

production, the purpose, location and operation of the facility, the general business activity of the facility, and whether the jurisdictional determination is consistent with the objectives of the Natural Gas Act and the Natural Gas Policy Act of 1978.

Newfield asserts that there can be doubt that the primary function of the facilities is gathering. It is stated that the facilities connect directly to producing wells and were constructed to gather gas produced from those wells for delivery into transmission facilities currently owned by Sea Robin. Newfield also states that the facilities are short in length and small in diameter, do not extend beyond the production area, and are located upstream of processing or dehydration facilities and therefore are gathering facilities. Newfield also points out that an application of the non-physical factors set out in *Amerada Hess* demonstrates that the facilities should be classified as gathering facilities. It is stated that the sole purpose of the facilities is to gather gas produced by Newfield as the sole working interest owner in the wells for delivery to transmission facilities owned by Sea Robin. Newfield also states that its general business activity is the exploration and production of natural gas.

Newfield requests that the petition be considered contemporaneously with Texas Eastern's application in Docket No. CP94–567–000 to abandon the facilities to be sold to Newfield.

Comment date: July 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. Columbia Gulf Transmission Company

Docket No. CP94–640–000

Take notice that on July 1, 1994, Columbia Gulf Transmission Company (Columbia Gulf), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314–1599, filed in Docket No. CP94–640–000, an abbreviated application pursuant to Sections 7(b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain replacement natural gas facilities and an order granting permission and approval to abandon the facilities being replaced, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Columbia Gulf proposes to construct and operate approximately 1.2 miles of 30-inch pipeline crossing the Mississippi River replacing approximately 1.2 miles of duel 24-inch crossing which ruptured in 1993 in East Carroll Parish, Louisiana. Columbia Gulf states that this river crossing is part of Columbia Gulf's Mainline 200 30-inch pipeline. Columbia Gulf further states that the Mainline 200 operates as part of a looped system in conjunction with Columbia Gulf's Mainline 100 30-inch and Mainline 300 36-inch extending from southern Louisiana to northeastern Kentucky. Columbia Gulf states that the proposed crossing, when operated as part of Columbia Gulf's looped pipeline system, will have equivalent designed delivery capacity to that of the facilities being replaced.

Columbia Gulf states that the estimated cost of the proposed construction is $5,747,000. Columbia Gulf states that it will finance the construction with funds generated from internal sources.

Columbia Gulf requests that this application be processed pursuant to section 385.802 of the Commission's Rules of Practice and Procedure and hereby waives oral hearing and the opportunity for filing exceptions to the decision of the Commission and requests the Commission to omit the intermediate decision procedure.

Comment date: July 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation

Docket No. CP94–641–000

Take notice that on July 1, 1994, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP94–641–000 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for authorization to construct and operate certain replacement natural gas facilities and for authorization to abandon the facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to construct and operate approximately 4.9 miles of 12-inch transmission pipeline replacing approximately 4.9 miles of deteriorating and obsolete 12-inch pipeline (Line A–5) in seven sections in Broome and Tioga Counties, New York.

Columbia states that it is not requesting authorization for any new or additional service. Columbia also states that the sections of pipeline to be constructed will have equivalent designed delivery capacity and that the facilities being replaced have become obsolete and/or physically deteriorated to the extent that the replacement is deemed advisable. The estimated cost of the proposed construction is $5,061,000 and the estimated net debit to retirement associated with the abandonment is $655,000.

Comment date: July 26, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the

time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16921 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. MT88–15–006]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1994.

Take notice that on June 30, 1994, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

First Revised Sheet No. 312
First Revised Sheet No. 313
First Revised Sheet No. 314

The proposed effective date of these revised tariff sheets is July 1, 1994.

CNG states that the purpose of this filing is to revise the standards of conduct stated in the General Terms and Conditions of CNG's FERC Gas Tariff, Section 11C. According to CNG, new Section 11C.6. incorporates the Commission's stated provisions to ensure nondiscriminatory access with regard to CNG's gathering affiliate(s).

CNG states that copies of this filing are being served upon parties to the captioned proceedings, and upon CNG's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16923 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–96–005]

CNG Transmission Corp.; Notice of Compliance Filing and Motion

July 7, 1994.

Take notice that on June 30, 1994, CNG Transmission Corporation (CNG) pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations, filed proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1 to become effective on July 1, 1994, subject to refund. Also take notice that CNG submitted a motion to make the revised tariff sheets effective on July 1, 1994, at the close of the suspension period in this case.

CNG states that the filing addresses the various adjustments required by the January 31, 1994, and April 6, 1994, orders in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16924 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–213–001]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1994.

Take notice that on June 30, 1994, CNG Transmission Corporation (CNG), filed for inclusion in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 31
First Revised Sheet Nos. 200–207, Sheet No. 208
First Revised Sheet Nos. 255, 272, 274, 284, and 344
Second Revised Sheet Nos. 345, 346, 347, 349, and 350
First Revised Sheet No. 443

The proposed effective date of these tariff sheets is July 1, 1994.

CNG states that these revised tariff sheets contain modifications to CNG's Rate Schedule MCS, Market Center Services, conforming references in the General Terms and Conditions of CNG's tariff, and one revision to the form of agreement applicable to CNG's market center services.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR Section 385.211. All such protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16925 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–638–000]

CNG Transmission Corporation; Request Under Blanket Authorization

July 7, 1994.

Take notice that on July 1, 1994, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP94–638–000 a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authorization to abandon two metering and regulation stations (known as the Mars and Gibsonia M&R Stations) located in Butler County, Pennsylvania, under the blanket certificate issued in Docket No. CP82–537–000, pursuant to Section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG is seeking abandonment authority in order to be able to sell the stations to The Peoples Natural Gas Company, an affiliate of CNG. CNG states that it no longer needs the measurement and regulation equipment at Mars and Gibsonia because the Stull M & R Station now performs those duties. It is indicated that Peoples is the only customer served through the Mars and Gibsonia taps and would like to purchase the metering and auxiliary equipment. CNG proposes to sell the facilities at the net book values, which

are $56,571.55 for the Gibsonia and $17,211.13 for the Mars Station.

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 therefore, the proposed activity shall be deemed 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. 94–16922 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–18–000]

Cranberry Pipeline Corp.; Notice of Petition for Rate Approval

July 7, 1994.

Take notice that on June 17, 1994, Cranberry Pipeline Corporation (Cranberry) filed a petition for rate approval pursuant to section 284.123(b)(2) of the Commission's regulations. Cranberry requests that the Commission approve as fair and equitable a systemwide rate of $0.773 per Mcf for transportation services to be performed on its integrated (Meadville) Pennsylvania system under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Cranberry states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates discrete pipeline facilities in the States of West Virginia and Pennsylvania. Cranberry proposes an effective date of June 17, 1994.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All motions must be filed with the Secretary of the Commission on or before July 22, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16926 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–93–003]

K N Interstate Gas Transmission Co.; Notice of Motion To Place Rates Into Effect

July 7, 1994.

Take notice that on June 29, 1994, K N Interstate Gas Transmission Co. (KNI) filed a Motion to Place Rates and Tariff Sheets into Effect on July 1, 1994. By its motion, KNI places into effect, on July 1, 1994, rates and revised tariff sheets to Second Revised Volume No. 1–A of its FERC Gas Tariff. KNI states that copies of the revised tariff sheets being moved into effect were appended to KNI's Motion.

KNI states that all persons designated on the service list in this proceeding have been served with this filing as well as affected public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 14, 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. 94–16927 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–17–000]

Mississippi Valley Gas Co.; Notice of Petition for Rate Approval

July 7, 1994.

Take notice that on June 13, 1994, Mississippi Valley Gas Company (Mississippi Valley) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.2907 per MMBtu for transportation of natural gas on Mississippi Valley's system under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). Mississippi Valley's entire company service area is within the State of Mississippi.

Mississippi Valley states that it does not choose to make an election under Section 284.123(b)(1) and instead applies for Commission approval of the $0.2907 general system rate proposed herein. Mississippi Valley's current maximum interruptible transportation rate is also $0.2907 per MMBtu and was approved by letter order dated December 26, 1991 in Docket No. PR91–21–000 for a three-year period ending June 16, 1994. For competitive reasons, Mississippi Valley seeks to justify continuation of the current rate even though a higher $.506 rate is supported by this filing.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before July 22, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16928 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–631–000]

National Fuel Gas Supply Corporation and Laurel Fields Storage Company; Notice of Application

July 7, 1994.

Take notice that on June 28, 1994, National Fuel Gas Supply Corporation (National) 10 Lafayette Square, Buffalo,

New York 14203, and Laurel Fields Storage Company (Laurel Fields), a partnership to be formed by National or its affiliate and other equity participants following the receipt of Securities and Exchange Commission approval, filed in Docket No. CP94–631–000, a joint application, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Subpart A of Part 157 and Subpart G of Part 284 of the Commission's Regulations, for a certificate of public convenience and necessity, blanket certificates, and abandonment authorization.

Specifically, Laurel Fields seeks a certificate of public convenience and necessity authorizing: (1) Conversion of the Callen Run production field, located in Jefferson County, Pennsylvania, to an interstate natural gas storage field; (2) the acquisition of the Limestone Storage Field (formally the Allegheny State Park storage field) located in Cattaraugas County, New York, from National; (3) the construction and operation of the necessary facilities to develop the Callen Run Storage Field and to expand the capacity of the Limestone Storage Field; (4) participation in a no-fee exchange with National solely for the purpose of maintaining gas service to four retail customers who now receive gas off production lines in the Callen Run field that will be replaced by new storage pipelines; and (5) the abandonment of existing pipelines and a compressor facility that will be replaced with new facilities at the Limestone Storage Field.

Laurel Fields also seeks blanket certificates under Subpart F, Part 157 and Subpart G, Part 284 of the Commission's Regulations.

Laurel Fields has proposed to develop the Callen Run field into an underground natural gas storage field with 12.1 Bcf of working gas capacity and states that the injection of an estimated 10.3 Bcf of base gas will be required, and that the field will yield an estimated 130 MMcf per day of peak withdrawal deliverability. The total cost of the Callen Run facilities is estimated to be $76,043,000. It also has proposed to further develop the Limestone Storage Field and expand its working gas capacity to 7 Bcf, which will require the injection of an estimated 3.5 Bcf of additional base gas, and will yield a total peak withdrawal deliverability of 77 MMcf per day. The estimated cost of facilities for the Limestone Storage Field is $48,687,000. Thus, the entire Laurel Fields Storage Project will have a working gas storage capacity of 19.1 Bcf with a peak withdrawal rate of approximately 207 MMcf per day with a total estimated cost of $124,730,000.

Laurel Fields intend to offer firm and interruptible storage services on an open access, non-discriminatory basis in compliance with the Commission's blanket certificate regulations at Section 284.221. Laurel Fields proposes two firm storage services, Rate Schedules SS–110 and SS–60, and one interruptible storage service, Rate Schedule SSI. The rates proposed to be charged are cost-based in nature. Laurel Fields has filed a *pro forma* tariff consisting of the aforementioned rate schedules, General Terms and Conditions, and forms of service agreements.

National seeks permission and approval to (1) abandon its interests in the Limestone Storage Field, by assignment to Laurel Fields; (2) abandon four delivery points and to relocate one delivery point off production pipelines located in the Callen Run Storage Field that will be abandoned during the development of the field; and (3) to participate in the no-fee exchange with Laurel Fields; as previously described.

In addition, National and Laurel Fields seek any authorizations required from the Commission to effectuate a lease of the storage capacity (including injection and withdrawal deliverability) in the Limestone Storage Field from Laurel Fields to National during the construction phase of the project, which is proposed to commence during the Spring of 1996. It is also stated that National will require the capacity in the Limestone Storage Field until April 15, 1996, in order to meet existing contractual service obligations.

The applicants will be conducting an open season beginning August 1, 1994 and ending September 1, 1994, during which it will accept nominations for firm storage service. The application includes one (1) precedent agreement for 2.5 MMDth of long-term storage service with National Fuel Gas Distribution Corporation.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1994, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the NGA (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 jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National and Laurel Fields to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16929 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–183–002]

Southern Natural Gas Company; South Georgia Natural Gas Company; Filing of Revised Tariff Sheets

July 7, 1994.

Take notice that on July 5, 1994, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2A, the tariff sheets listed on Exhibit A hereto, to be effective August 5, 1994. Also, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, the tariff sheets listed on Exhibit B hereto, to be effective August 5, 1994.

Southern and South Georgia state that the purpose of this filing is to revise the Rate Schedules applicable to the offsystem storage service they provide through use of storage facilities and services rendered by ANR Pipeline Company and ANR Storage Company. The changes to the Rate Schedules on the tariff sheets filed propose certain adjustments and procedures in the Rate Schedules which would allow for the customers to elect to take assignment from Southern each Customer's percentage in the ANR Pipeline Company and/or the ANR Storage Company transportation and storage agreements and/or the South Georgia Customer's percentages in the South

Georgia service agreement with Southern.

Southern and South Georgia state that the filing also includes a description of how the transportation charges to be paid by the customers for the transportation of the gas by Southern and South Georgia from storage will be billed to the Customers. The transportation charges will be the applicable commodity rates under Southern and South Georgia's Rate Schedules FT or IT. Such filing has been made in compliance with the Federal Energy Regulatory Commission's ("Commission") order issued on May 4, 1994, in the above captioned proceeding. Southern and South Georgia have requested that the revised tariff sheets be made effective as of August 5, 1994.

Southern and South Georgia also request clarification from the Commission that their certificate applications in Docket Nos. CP79–374 and CP79–382, respectively, have been effectively amended by the terms of the May 4 Order to incorporate the changes provided in the tariff sheets herein. Further, Southern and South Georgia seek pre-granted abandonment authority, upon election by any of the customers, to make the assignments required by the May 4 Order, to abandon Southern's obligation in the ANR Storage and/or ANR Pipeline Transportation agreement as of the date of the assignment and to abandon South Georgia's obligations in the Southern Storage agreement upon assignment.

Southern and South Georgia state that copies of the filing will be served upon their customers, interested state commissions and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

Exhibit A—Southern Natural Gas Company

Docket No., RP94–183–002

July 5, 1994.

First Revised Sheet No. 18
First Revised Sheet No. 28
First Revised Sheet No. 29
First Revised Sheet No. 30
First Revised Sheet No. 50
First Revised Sheet No. 60
First Revised Sheet No. 61
First Revised Sheet No. 62
First Revised Sheet No. 85
Second Revised Sheet No. 86
Second Revised Sheet No. 87
Second Revised Sheet No. 88
Second Revised Sheet No. 89
Second Revised Sheet No. 90
First Revised Sheet No. 91
First Revised Sheet No. 92
Original Sheet No. 92a
First Revised Sheet No. 93
Original Sheet No. 93a
Nineteenth Revised Sheet No. 94
Original Sheet No. 94a
Original Sheet No. 94b
Second Revised Sheet No. 96
First Revised Sheet No. 98
First Revised Sheet No. 99
First Revised Sheet No. 100
First Revised Sheet No. 104
Original Sheet No. 104a

Exhibit B—South Georgia Natural Gas Company

Docket No. RP94–183–002

July 5, 1994.

First Revised Sheet No. 20
First Revised Sheet No. 21
First Revised Sheet No. 49
First Revised Sheet No. 50
Second Revised Sheet No. 69
Second Revised Sheet No. 70
First Revised Sheet No. 71
Second Revised Sheet No. 72
Second Revised Sheet No. 74
Second Revised Sheet No. 75
Nineteenth Revised Sheet No. 76
Second Revised Sheet No. 78
First Revised Sheet No. 81
First Revised Sheet No. 82
First Revised Sheet No. 83
Second Revised Sheet No. 99
Second Revised Sheet No. 100
First Revised Sheet No. 101
Second Revised Sheet No. 102
Second Revised Sheet No. 104
Second Revised Sheet No. 105
Nineteenth Revised Sheet No. 106
Second Revised Sheet No. 108
First Revised Sheet No. 110
First Revised Sheet No. 112

[FR Doc. 94–16930 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–309–000]

Tennessee Gas Pipeline Company; Proposed Changes in FERC Gas Tariff

July 7, 1994.

Take notice that on July 1, 1994, Tennessee Gas Pipeline Company filed a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. 717c, and the rules and regulations of the Federal Energy Regulatory Commission promulgated thereunder to recover gas supply realignment costs (GSR costs) associated with the period January 1, 1994 through March 31, 1994. Tennessee proposes that the filing be made effective August 1, 1994. The tariff sheets identified below set forth Tennessee's GSR-related charges:

Fourth Revised Sheet No. 22
Fourth Revised Sheet No. 24
Seventh Revised Sheet No. 30

Tennessee states that the purpose of the filing in this docket is to implement its recovery, effective August 1, 1994, of GSR costs associated with the period January through March 1994. The GSR costs sought to be recovered include pricing differentials costs associated with Tennessee's performance under certain of its remaining gas supply contracts and Canadian demand charges.

Tennessee states that copies of the filing were mailed to all affected customers of Tennessee and interested state regulatory commissions.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16931 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–314–000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1994.

Take notice that on July 1, 1994, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with a proposed effective date of August 1, 1994:

First Revised Sheet No. 351
Original Sheet No. 351A
First Revised Sheet No. 353
Original Sheet No. 354
Sheet Nos. 355–358
First Revised Sheet No. 360

Original Sheet No. 360A
First Revised Sheet No. 362
Original Sheet No. 363
Sheet Nos. 364–367

Texas Eastern states such tariff sheets restate the procedures for firming up capacity for those customers and their assignees that, prior to implementation of Order No. 636, received interruptible transportation under Rate Schedules SS–2 and SS–3. Texas Eastern notes that such firm-up elections are limited to the interruptible capacity rights of customers under Rate Schedule SS–2 and SS–3 immediately prior to June 1, 1993, which is the date Order No. 636 was implemented on Texas Eastern's system. Texas Eastern states that these tariff sheets are supported by The Brooklyn Union Gas Company, Elizabethtown Gas Company, PECO Energy Company, and UGI Utilities, Inc.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16932 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–34–011]

Williston Basin Interstate Pipeline Company; Compliance Filing

July 7, 1994.

Take notice that on July 5, 1994, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing, under protest certain revised tariff sheets to First Revised Volume No. 1 and Original Volume Nos. 1–A, 1–B and 2 of its FERC Gas Tariff.

Williston Basin states that the revised tariff sheets were filed in compliance with the Commission's "Order Affirming in Part and Reversing in Part Initial Decision" issued May 3, 1994 in Docket Nos. RP89–34–000, RP89–257–000 and RP90–2–000 and the Commission's "Notice of Extension of Time" issued May 24, 1994 in Docket Nos. RP89–34–009, RP89–257–002 and RP90–2–012 as more fully described in the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 14, 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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16933 Filed 7–12–94; 8:45 am]

BILLING CODE 6717–01–M

Southeastern Power Administration

Cumberland Basin System of Projects

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice.

SUMMARY: On June 29, 1994, the Deputy Secretary, Department of Energy, confirmed and approved, on an interim basis, Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CM–1–C, CC–1–D, CK–1–C, AND CTV–1–C for the Cumberland Basin System of Project's power. The rates were approved on an interim basis through June 30, 1999, and are subject to confirmation and approval by the Federal Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Director, Power Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued September 26, 1989, in Docket No. EF89–3031–000, confirmed and approved Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B, and CTV–1–B through June 30, 1994. Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CM–1–C, CC–1–D, CK–1–C, AND CTV–1–C replace these rate schedules.

System Development: Nine projects make up the Cumberland system. The Cumberland projects are: Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, Cordell Hull and Laurel.

The projects were developed by the U.S. Army Corps of Engineers for the comprehensive development of the Cumberland River Basin. Project purposes include hydroelectric power, navigation, flood control, recreation, pollution abatement, and economic development. Collectively the projects provide 5.1 million acre feet of flood control storage and 380 miles of navigation channel. Each of the nine reservoirs have specific recreational facilities which attract millions of visitors annually. The total installed capacity of the projects is 914 MW which generate an average of 3,271,000 MWH annually.

Issued in Washington, DC, June 29, 1994.

William H. White,

Deputy Secretary.

Order Confirming and Approving Power Rates on an Interim Basis

In the Matter of: Southeastern Power Administration—Cumberland Basin Projects' Power Rates. Rate Order No. SEPA–33.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective May 30, 1986, 51 F.R. 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis or to disapprove rates developed by the Administrator under the delegation. On November 4, 1993, the Secretary of Energy issued Amendment No. 3 to Delegation Order No. 0204–108, [58 F.R. 59716; November 10, 1993] granting the Deputy Secretary authority to confirm, approve, and place into effect Southeastern's rates on an interim basis. This rate order is issued pursuant to the delegation to the Deputy Secretary.

Background

Projects

Power from 8 of the 9 projects in the Cumberland Basin Projects (Wolf Creek, Center Hill, Dale Hollow, Old Hickory, Cheatham, Barkley, J. Percy Priest, Cordell Hull and Laurel) is sold through the transmission system of the Tennessee Valley Authority (TVA). TVA has contracted to purchase 405,000 KW to preference customers outside the service area and to firm up the 70,000 KW from the Laurel Project. The Laurel Project is located in the service area of and delivered to East Kentucky Power Cooperative. Cumberland Basin power not sold to East Kentucky Power for the use of its preference customers is sold to eight municipalities in the Mississippi Power and Light area via a contract with the Municipal Energy Agency of Mississippi; seven cooperatives in the Mississippi Power and Light area via a contract with South Mississippi Electric Power Association; Big Rivers Electric Corporation; the City of Henderson Kentucky; East Kentucky power Cooperative; Southern Illinois Power Cooperative; and one municipality and two cooperatives in the western portion of the Carolina Power and Light Company (CP&L) service area via transmission over TVA's and CP&L's transmission system. Currently 62 MW of the power to be marketed outside the TVA area is temporarily being marketed to TVA for the use of its preference customers pending completion of arrangements to market the power to preference customers in the Kentucky Utilities Company area. The projects were developed by the U. S. Army Corps of Engineers for the comprehensive development of the Cumberland River Basin. Project purposes include hydroelectric power, navigation, flood control, recreation, pollution abatement, and economic development. Collectively the projects provide 5.1 million acre feet of flood control storage and 380 miles of navigation channel. Each of the 9 projects have specific recreation facilities which attract millions of visitors annually. Total installed capacity of the projects is 914 MW which generate an average of 3,271,000 MWH annually. The power generated at the projects in operation during fiscal year 1993 was sold to 293 customers. Southeastern cannot furnish the entire capacity and energy needs of any of its customers. Capacity and energy requirements in excess of that available from Southeastern's resources must be acquired from other sources.

Transmission

Under the Notice of Issuance Final Power Marketing Policy, Cumberland System of Projects 58 FR 41762; August 5, 1993, 475 MW of capacity is made available to SEPA's customers outside the TVA region from the Cumberland Projects. Under TVA's firm commitment of transmission service provided for in the marketing agreement, TVA makes the amounts SEPA schedules (as much of the 475 MW as Southeastern indicates) available across the TVA system to the points selected by Southeastern on the periphery of the system. Under the Power Marketing policy, 405 MW is allocated to TVA for the benefit of 160 preference customers located on the TVA system. According to the marketing policy, TVA is to receive a monthly credit for delivering Cumberland system capacity and energy to SEPA's preference customers outside the TVA region. The credit is applied each month against charges to TVA for Cumberland River system capacity and energy provided TVA under the marketing agreement. Since 1984 this monthly credit has been $500,000 for 475 MW to be delivered to the periphery of the TVA system. This monthly credit is reduced for each MW of capacity that Southeastern is unable to sell to its customers outside the TVA area. Therefore, TVA's monthly credit has been reduced in the past by $80,600 for the 62 MW of capacity that SEPA has been unable to sell due to Kentucky Utilities Company's refusal to wheel such power to preference customers located in its area. TVA has received an annual credit of approximately $5,032,800 which will increase to $6,032,800 under the negotiated settlement which is described in this document.

Current Rates

Power from the Cumberland Basin Projects is presently sold under Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B. Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B were confirmed and approved by the Federal Energy Regulatory Commission by order issued September 16, 1989, for a period beginning July 1, 1989, and ending June 30, 1994.

Discussion

System Repayment

An examination of Southeastern's system power repayment study prepared in May 1994 for the Cumberland Basin Projects reveals that with an annual revenue increase of $2,211,000, over the current revenues shown in the previous February 1994 repayment study, all system power costs are paid within their repayment life. Wholesale Power Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CC–1–D, CM–1–C, CK–1–C and CTV–1–C are designed to produce adequate revenue to recover all system power costs on a timely basis. The Administrator of Southeastern has certified that the rates are consistent with the applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Rate Design

A repayment study was prepared using present contract rates. The repayment study demonstrated that rates were not high enough to repay all investments within their repayment life. Southeastern proposed a 6 percent rate increase that would meet repayment criteria. The Tennessee Valley Authority (TVA) responded by increasing their transmission charge from $6 to $12.1 million. Southeastern held a Public Comment forum on March 10, 1994 to give opportunity for review and comment of proposed rates. Southeastern announced a revised rate increase of 24 percent for all customers. At the Public Comment Forum TVA asserted that the rate design used to calculate the 24 percent rate increase failed to compensate TVA for the use of its transmission facilities and that TVA customers were paying for transmission service twice.

The 160 preference customers inside TVA are represented by the Tennessee Valley Public Power Association (TVPPA). The TVPPA is a service organization that, among other duties, negotiates rates with TVA. Power requirements of TVPPA members are provided exclusively by TVA.

The TVPPA rates committee questioned the allocation of costs between capacity and energy. Previous rate filings allocated 40 percent of the generation costs to capacity and 60 percent to energy. The 40/60 allocation was criticized by TVA for allocating too much of the generation cost to energy. TVPPA felt that more of the cost should be placed on the capacity component of the rate and that the energy component should cover O&M. Customers outside the TVA system criticized Southeastern's Cumberland marketing plan for giving too much energy to TVA.

After the public comment forum Southeastern met with TVA and the outside customers in an attempt to negotiate a settlement. Southeastern agreed to change the rate design. The

new rate design eliminates the capacity/energy split and allocates the TVA transmission charge to the outside customers. All customers pay a capacity charge that includes 1500 hours energy with each kilowatt of capacity. Residual energy is sold to TVA with an additional energy charge. This eliminated the disagreement regarding the 40/60 split.

Initially TVA proposed a $12.1 million transmission charge. Southeastern and TVA agreed to a negotiated settlement of $7 million per year for transmission. The settlement results in a 5.1% rate increase to TVA and a 9.5% increase to outside customers. This amount is reduced further by a $967,200 credit for power that is allocated, but not delivered to customers in the Kentucky Utilities service area. While neither TVA nor outside customers are completely satisfied with this settlement, Southeastern does not believe either will intervene against this rate.

A copy of the Public Comments and Responses (Exhibit A–5 of the Rate Filing) is attached to clarify any issues that may not be fully addressed in the main body of this document.

Public Notice and Comment

Opportunities for public review and comment on Wholesale Power Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CC–1–D, CM–1–C, CK–1–C and CTV–1–C, proposed for use during the period July 1, 1994, through June 30, 1999, were announced by Notice published in the **Federal Register** on February 7, 1994. All customers were notified by mail. A Public Information and Comment Forum was held in Nashville, Tennessee, on March 10, 1994, and written comments were invited by the Notice through May 3, 1989. Oral comments were presented at the forum and written comments were received prior to May 10, 1994. There were twelve (12) substantive comments received and all comments were evaluated. Comments and questions from four sources were received at the Public Comment Forum held in Nashville on March 10, 1994. These are included in the Forum transcripts which are included as exhibit A–4. Written comments and questions from four sources were received by mail and facsimile during the comment period and are attached. The comments were received pursuant to **Federal Register** Notice 59 F.R. 5581 dated February 7, 1994. The following substantive issues contained in the comments were considered. A summary of written comments, written responses, and the oral comments follows this discussion of the substantive issues.

Comment 1: The allocation of the TVA transmission credit does not recognize that the schedules to outside preference customers cannot be met without the entire TVA transmission system and fails to compensate TVA for the use of its transmission facilities for the delivery of these schedules.

Response: Lacking its own transmission system, transmission services are required from TVA to deliver capacity and energy allocations to customers outside the TVA system. Rates that have been in effect since July 1, 1989 allocate some of the TVA transmission charge to the TVA area customers. This rate design was originally proposed in order to reallocate what Southeastern viewed as an excess transmission charge by TVA. The rate design was not contested at FERC by TVA. Southeastern's rate proposal that is effective July 1, 1994 includes a $7,000,000 credit for TVA's transmission service. TVA area customers will not pay a portion of this transmission charge and the entire amount will be paid by customers outside the TVA system. This is the amount agreed to by Southeastern and TVA after weeks of negotiations subsequent to the March 10, 1994 public information and comment forum. This issue is further discussed in the Rate Adjustment Process and Design section of the Rate Order.

Comment 2: TVA's customers are being charged for service provided by their own system. In effect, they are paying for a portion of the TVA system twice.

Response: The issue of paying for a portion of the TVA system twice was reconciled in the negotiated settlement. Customers outside of the TVA system bear the full amount of transmission services provided by TVA.

Comment 3: The TVA transmission cost of $12 million which was originally proposed by TVA resulted in a rate of $2 per kilowatt per month and 1 mill per kilowatt-hour. This rate is too high, not justified, and would not pass FERC scrutiny.

Response: The negotiated settlement between Southeastern and TVA allocated reduced the transmission cost from $12 million to $7 million.

Comment 4: SEPA should not include TVA's increase in their charge for transmission services in SEPA's rates until preference customers have had ample opportunity to make comments or intervene in some way.

Response: This objection was addressed in the negotiated rate settlement.

Comment 5: TVA is overcompensated on the amount of energy they get with each KW of capacity they receive.

Response: This comment is understood to address the Cumberland Basin Power Marketing Policy which sets forth, among other things, capacity and energy allocations in the Cumberland Basin. The Power Marketing Policy is set forth in 58 F.R. 41702 published August 5, 1993. Cumberland Basin System marketing arrangements provide all customers with 1,500 hours of energy for each kilowatt of capacity allocated by Southeastern. TVA receives 1,500 hours of energy per KW and is also allowed to purchase any residual system energy which averages 5,000 hours per KW per year.

Comment 6: Energy should be prorated to all customers and the rate increase should be shared among all customers.

Response: Power allocation is addressed in the power marketing policy for the Cumberland system and was not addressed in this rate filing. As the result of the negotiated settlement, the transmission charge to outside customers was reduced from $12 million to $7 million per year.

Comment 7: East Kentucky should not pay TVA wheeling on the portion of its capacity allocation it receives at the Laurel project.

Response: The Laurel Project is located in the service territory of East Kentucky Power Cooperative. All of the output of Laurel is delivered to East Kentucky and therefore no other customer receives any benefit from this project. Even though TVA does not have an interconnection with the Laurel Project bus bar, TVA has interconnections with East Kentucky that facilitate the delivery of power from elsewhere in the system to provide firming support.

The Laurel Project was integrated into the Cumberland Basin System for repayment in 1984. While the Laurel Project is the highest cost project in the Cumberland Basin System, financially integrating the project into the system effectively lowers capacity and energy charges for East Kentucky and raises the charges for other preference customers. Including power from the Laurel Project in the allocation of the TVA transmission charge has a similar but opposite impact. The transmission charge is lowered for other customers and increased for East Kentucky.

The net impact of these complicated financial and physical arrangements provides the lowest possible rates to all of the preference customers in the Cumberland Basin system within the

meaning of Section 5 of the Flood Control Act of 1944.

Comment 8: The Corps O&M costs are too high.

Response: The Flood Control Act of 1944 requires Southeastern to recover Corps Operation & Maintenance costs allocated to power. Such costs are included in this rate. Southeastern agrees that these costs are too high and will continue to work with the customers and the Corps in an effort to lower the O&M costs on Corps hydropower projects.

Comment 9: Southeastern's deviation from standard allocation method for allocating generation costs places an undue cost burden on preference customers in the TVA area.

Response: Southeastern believes that a standard allocation method, where fixed costs are charged to capacity and variable costs are charged to energy, is inappropriate for a hydro system because most of the costs of a hydro system are fixed. In designing the proposed rates in 1984, Southeastern compared utilities in the TVA area and attempted to emulate the capacity energy split used in their sales for resale. In 1984 Southeastern determined that, on average, most utilities in the TVA area charged 40 per cent to capacity and 60 per cent to energy. We continued this arrangement in 1989. The 1994 rate design, agreed to as the result of the negotiated settlement, does not continue the 60/40 split but establishes a rate for a kilowatt of capacity that includes 1,500 kwh's of energy. Southeastern believes that this new rate design will eliminate the disagreement between TVA and SEPA on capacity energy split of costs.

Comment 10: Since the resources are used primarily for peaking purposes, a greater portion of the rate should be allocated to the fixed or demand component.

Response: Power is marketed from the Cumberland Basin System for different purposes. In accordance with the Final Power Marketing Policy for the Cumberland System of Projects adopted August 5, 1993, 58 F.R. 41762, customers outside the TVA system receive a base of 1,500 hours of energy per kilowatt per year, which makes their allocation peaking power. Similarly, in accordance with said policy, customers inside the TVA system receive an average of 5,000 additional hours energy per kw of capacity, which makes their power similar to a combination of peaking and intermediate power. Allocating all costs on the assumption that all power from the Cumberland Basin System is a peaking resource would have the effect of shifting costs from the inside customers to the outside customers. Southeastern does not believe that this would be equitable. As a result of the settlement, Southeastern developed a new rate design which charges customers inside and outside TVA a base rate for a KW of capacity which includes 1,500 KWH. An excess energy charge is levied on customers inside TVA that receive residual system energy.

Comment 11: The methodology used by Southeastern in determining the capacity/energy split includes power sales that are not comparable to the type of sales made by Southeastern from the Cumberland River System.

Response: Southeastern has developed a new rate design which deletes the separate change for capacity and energy and eliminates this argument.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of this rate adjustment and has concluded that the increased rates would not significantly impact the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The proposed rate adjustment is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rate schedules, including studies, and other supporting documentation is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Washington Liaison Office, James Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning July 1, 1994, and ending no later than June 30, 1999.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1994, attached Wholesale Power Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CC–1–D, CM–1–C, CK–1–C and CTV–1–C. The rate schedules shall remain in effect on an interim basis through June 30, 1999, unless such period is extended or until the Federal Energy Regulatory Commission confirms and approves it or substitute rate schedules on a final basis.

Issued in Washington, DC, June 29, 1994.

William H. White,

Deputy Secretary.

Wholesale Power Rate Schedule CTV–1–C

Availability: This rate schedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability: This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the "Cumberland Projects") and the Laurel Project sold under agreement between the Department of Energy and TVA.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 Hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Monthly Rates: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.668 per kilowatt/month of total demand as determined by the agreement between the Department of Energy and TVA.

Energy Charge: None.

Additional Energy Charge: 7.247 mills per kilowatt-hour.

Energy to be Made Available: The Department of Energy shall determine the energy that is available from the projects for declaration in the billing month.

To meet the energy requirements of the Department of Energy's customers outside the TVA area (hereinafter called Other Customers), 749,400 megawatt-hours of net energy shall be available annually (including 36,900 megawatt-hours of annual net energy to supplement energy available at Laurel Project) provided, that if additional energy is required to make a marketing arrangement viable for other customers which do not own generating facilities and which are within service areas of Kentucky Utilities Company and Carolina Power & Light Company, Western Division, such additional energy required shall be made available from the Cumberland Projects and shall not exceed 300 kilowatt-hours per

kilowatt per year. The energy requirement of the Other Customers shall be available annually, divided monthly such that the maximum available in any month shall not exceed 220 hours per kilowatt of total Other Customers contract demand, and the minimum amount available in any month shall not be less than 60 hours per kilowatt of total Other Customers demand.

In the event that any portion of the capacity allocated to Other Customers is not initially delivered to the Other Customers as of the beginning of a full contract year (July through June), the 1500 hours, plus any such additional energy required as discussed above, shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

The energy scheduled by TVA for use within the TVA System in any billing month shall be the total energy delivered to TVA less (1) an adjustment for fast or slow meters, if any, (2) an adjustment for Barkley-Kentucky Canal of 15,000 megawatt-hours of energy each month which is delivered to TVA under the agreement from the Cumberland Projects without charge to TVA, (3) the energy scheduled by the Department of Energy in said month for the Other Customers plus losses of two (2) percent, and (4) station service energy furnished by TVA.

Each kw of capacity received by TVA includes 1500 kwh of energy. Energy received in excess of 1500 kwh will be subject to an additional energy charge identified in the monthly rates section of this rate schedule.

Billing Month: The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Contract Year: For purposes of this rate schedule, a contract year shall be as in Section 13.1 of the Southeastern Power Administration—Tennessee Valley Authority Contract.

Service Interruption: When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system which are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to TVA will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

	Monthly capacity charge		Agreement capacity
Number of kilowatts unavailable for at least 12 hours in any calendar day.	× Number of days in billing month	×	880,000 kilowatts.

The agreement capacity related to the 76,000 kilowatts of capacity allocated to the Other Customers in the Carolina Power & Light Company and Kentucky Utilities service areas shall, irrespective of sale to Other Customers, remain in effect in the formula throughout the term of this rate schedule.

Power Factor: TVA shall take capacity and energy from the Department of Energy at such power factor as will best serve TVA's system from time to time; provided, that TVA shall not impose a power factor of less than .85 lagging on the Department of Energy's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CBR–1–C

Availability: This rate schedule shall be available to Big Rivers Electric Corporation and includes the City of Henderson, Kentucky, (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery: Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $2.738 per kilowatt/month of total contract demand.

Energy Charge: None.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

	Monthly capacity charge	Contract demand
Number of kilowatts unavailable for at least 12 hours in any calendar day.	× Number of days in billing month	× *880,000 kilowatts.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CSI–1–C

Availability: This rate schedule shall be available to Southern Illinois Power Cooperative (hereinafter the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery: Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.738 per kilowatt/month of total contract demand.

Energy Charge: None.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

	Monthly capacity charge	Contract demand
Number of kilowatts unavailable for at least 12 hours in any calendar day.	× Number of days in billing month	× *880,000 kilowatts.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CEK–1–C

Availability: This rate schedule shall be available to East Kentucky Power Cooperative (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and power available from the Laurel Project and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of the Customer.

Points of Delivery: The points of delivery will be the 161,000 volt bus of the Wolf Creek Power Plant and the 161,000 volt bus of the Laurel Project. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule from the Cumberland Projects shall be:

Demand Charge: $2.738 per kilowatt/month of total contract demand.

Energy Charge: None.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand plus 369 kilowatt-hours of energy delivered for each kilowatt of contract demand to supplement energy

available at the Laurel Project. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

	Monthly capacity charge	Contract demand
Number of kilowatts unavailable for at least 12 hours in any calendar day.	× Number of days in billing month	× 880,000 kilowatts.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CM–1–C

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association and Municipal Energy Agency of Mississippi (hereinafter called the Customers).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Mississippi Power and Light.

Points of Delivery: The points of delivery will be at interconnection points of the Tennessee Valley Authority system and the Mississippi Power and Light system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.738 per kilowatt/month of total contract demand.

Energy Charge: None.

Energy to be Furnished by the Government: The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

	Monthly capacity charge	Contract demand
Number of kilowatts unavailable for at least 12 hours in any calendar day.	× Number of days in billing month	× 880,000 kilowatts.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CC–1–D

Availability: This rate schedule shall be available to public bodies and cooperatives served through the facilities of Carolina Power & Light Company, Western Division (hereinafter called the Customers).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission system of Carolina Power & Light Company, Western Division.

Points of Delivery: The points of delivery will be at interconnecting points of the Tennessee Valley Authority system and the Carolina Power & Light Company, Western Division system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $3.116 per kilowatt/month of total contract demand.

Energy Charge: None.

Transmission Charge: $1.6254 per kilowatt of total contract demand.

The transmission rate is subject to annual adjustment on April 1 of each year and will be computed subject to the formula in Appendix A attached to the Government—Carolina Power & Light Company contract.

Energy to be Furnished by the Government: The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less six percent (6%) losses). The Customer's contract demand and accompanying energy allocation will be divided pro rate among its individual delivery points served from the Carolina Power & Light Company's, Western Division transmission system.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Dated: July 1, 1994.

Wholesale Power Rate Schedule CK–1–C

Availability: This rate schedule shall be available to public bodies served through the facilities of Kentucky Utilities Company, (hereinafter called the Customers.)

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Kentucky Utilities Company.

Points of Delivery: The points of delivery will be at interconnecting points between the Tennessee Valley Authority system and the Kentucky Utilities Company system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $2.738 per kilowatt/month of total contract demand.

Energy Charge: None.

Additional Energy Charge: 7.247 mills per kilowatt-hour.

Transmission Charge: The transmission charge will be that negotiated between the Government and Kentucky Utilities Company and will be subject to adjustment according to the terms of the contracts.

Energy to be Furnished by the Government: The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

For billing purposes, each kilowatt of capacity will include 1500 kilowatt-hours energy per year. Customers will pay for additional energy at the additional energy rate.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

[FR Doc. 94–16991 Filed 7–12–94; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50790; FRL–4866–9]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275–EUP–79. Issuance. Abbott Laboratories, 1401 Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 191.00 pounds of the herbicide gibberellic acid on 1,800 acres of stone fruits to evaluate the improvement of fruit quality and

thinning of stone fruits. The program is authorized only in the States of California, Georgia, Illinois, Indiana, Michigan, New Jersey, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Washington, and West Virginia. The experimental use permit is effective from February 25, 1994 to September 30, 1994. Permanent tolerances for residues of the active ingredient in or on stone fruits have been established (40 CFR 180.224). (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

62719–EUP–27. Issuance. DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268–1189. This experimental use permit allows the use of 112.76 pounds of the herbicide N-(2,6-difluorophenyl)-5-methyl-1,2,4-triazole-[1,5a]-pyrimidine-2-sulfonamide, 303.13 pounds of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid, and 606.25 pounds of the herbicide 2,4-dichlorophenoxyacetic acid on a total of 4,850 acres of field corn to evaluate the control of various broadleaf weeds. The program is authorized in the States of Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, and Wisconsin. The experimental use permit is effective from April 28, 1994 to December 31, 1995. Temporary tolerances for residues of the active ingredients in or on corn have been established. (Joanne Miller, PM 23, Rm. 237, CM #2, (703–305–7830))

524–EUP–80. Issuance. Monsanto Company, The Agricultural Group, Suite 1100, 700 14th St., NW., Washington, DC 20005. This experimental use permit allows the use of 8,172 pounds of the hybridizing agent 2-(4-chlorophenyl)-3-ethyl-2,5-dihydro-5-oxo-4-pyridazinecarboxylic acid, potassium salt on 1,495 acres of wheat to screen a wide variety of germplasm as possible parental varieties, determine the effects of environment on efficacy, and to develop application techniques for large-scale field use. The program is authorized only in the States of Arkansas, Colorado, Illinois, Indiana, Kansas, Michigan, Minnesota, Montana, North Dakota, Ohio, Oregon, and Texas. The experimental use permit is effective from March 4, 1994 to March 4, 1995. Temporary tolerances for residues of the active ingredient in or on wheat (forage, grain, and straw) have been established. (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

264–EUP–91. Issuance. Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709. This experimental use permit allows the use of 2,992 pounds (1,496 pounds each year) of the fungicide aluminum tris (O-ethyl phosphonate) and 1,496 pounds (748 pounds each year) of the fungicide 3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide on 7,480 acres (3,740 acres each year) of cotton to evaluate the control of various cotton diseases. The program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from November 9, 1993 to November 1, 1995. Temporary tolerances for residues of the active ingredients in or on cotton have been established. (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

264–EUP–92. Issuance. Rhone-Poulenc, P.O. Box 12014, Research Triangle Park, NC 27709. This experimental use permit allows the use of 198.00 pounds of the herbicides octanoic acid ester of bromoxynil, heptanoic acid ester of bromoxynil, and isooctyl ester of 2-methyl-chlorophenoxyacetic acid on 792 acres of wheat to evaluate the control of certain broadleaf weeds. The program is authorized only in the States of Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Washington. The experimental use permit is effective from May 4, 1994 to May 4, 1995. (Robert Taylor, PM 25, Rm. 243, CM #2, (703–305–6800))

707–EUP–121. Renewal. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 453.5 pounds of the fungicide alpha-[2-(4-chlorophenyl)ethyl]-alpha-phenyl-1*H*-1,2,4-triazole-1-propanenitrile on 605 acres (each year) of stone fruits to evaluate product performance, to conduct residue studies, to define optimum use rates, and to define and demonstrate product performance characteristics. The program is authorized only in the States of Alabama, Arkansas, California, Colorado, Delaware, Georgia, Idaho, Illinois, Louisiana, Maryland, Michigan, Missouri, Montana, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from November 22, 1993 to November 7, 1995. Temporary tolerances for residues of the active ingredient in or on stone fruits have been established. (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

707–EUP–125. Extension. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 200 pounds of the fungicide alpha-[2-(4-chlorophenyl)ethyl]-alpha-phenyl-1*H*-1,2,4-triazole-1-propanenitrile on 200 acres of pecans to evaluate product performance and to define optimum use rates. The program is authorized only in the States of Alabama, Georgia, Louisiana, Mississippi, Oklahoma, and Texas. The experimental use permit is effective from December 20, 1993 to January 4, 1995. A temporary tolerance for residues of the active ingredient in or on pecans has been established. (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

612–EUP–1. Renewal. Unocal Agriproducts, c/o Delta Analytical Corp., 7910 Woodmont Ave., Suite 100, Bethesda, MD 20814. This experimental use permit allows the use of 1,057,400 pounds (528,700 pounds each year) of the nematicide and fungicide sodium tetrathiocarbonate on 3,700 acres (1,850 acres each year) of almonds, apricots, grapefruit, oranges, peaches, plums, prunes, and tomatoes to evaluate the control of various nematodes, oak root fungus, and phytophthora root rot. The program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from February 28, 1994 to December 15, 1995. Temporary tolerances for residues of the active ingredient in or on almonds, apricots, peaches, plums, prunes, and tomatoes have been established. Permanent tolerances for residues of the active ingredient in or on grapefruit and oranges have been established (40 CFR 180.467). (Cynthia Giles-Parker, PM–22, Rm. 229, CM #2, (703–305–5540))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: June 22, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–16981 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

[PP 4G3927/T665; FRL 4897–6]

Fenoxaprop-ethyl; Extension of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the herbicide fenoxaprop-ethyl and its metabolites in or on the raw agricultural commodity barley, grain at 0.05 part per million (ppm).

DATES: This temporary tolerance expires May 13, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM) 23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7830.

SUPPLEMENTARY INFORMATION: EPA issued a notice under (PP) 1G3927, which was published in the **Federal Register** of May 19, 1993 (58 FR 29217), announcing the establishment of a temporary tolerance for the combined residues of the herbicide fenoxaprop-ethyl ((±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy] propanoate and its metabolites 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy] propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one in or on the raw agricultural commodity barley, grain at 0.05 part per million (ppm). This tolerance is issued under pesticide petition (PP) 4G3927. Hoechst Celanese Corporation, Little Falls Center One, 2711 Centerville Rd., Wilmington, DE 19808, submitted both petitions.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 8340-EUP-13, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Hoechst Celanese Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires May 13, 1995. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–16862 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240105; FRL–4866–2]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 28 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Daria Mills, Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 216, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7406.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in December of 1993 through March of 1994. Receipts-of-State registrations will be published periodically. Of the following registrations, nine involve a changed-use pattern (CUP). The term "changed use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

1. *EPA SLN No. AL 94 0001.* Valent U.S.A. Corp. Registration is for Acephate to be used on peanut seed treatment to control thrips. March 8, 1994.

Arizona

2. *EPA SLN No. AZ 93 0017.* FMC Corp. Registration is for Bifenthrin to be used on potting media to control imported fire ant. December 6, 1993.

3. *EPA SLN No. AZ 93 0018.* FMC Corp. Registration is for Bifenthrin to be used on potting media to control imported fire ant. December 6, 1993.

4. *EPA SLN No. AZ 93 0019.* Rohm & Haas Co. Registration is for Oxyfluorfen to be used on noncrop rights-of-way to control weeds. January 3, 1994.

5. *EPA SLN No. AZ 94 0001.* Gowan Co. Registration is for Bensulide to be used on onions grown for seed to control weeds. February 8, 1994. (CUP)

6. *EPA SLN No. AZ 94 0002.* Valent U.S.A. Corp. Registration is for Acephate to be used on peppers to control thrips. February 3, 1994.

Arkansas

7. *EPA SLN No. AR 94 0001.* Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control barnyardgrass, junglerice, and redstem. December 1, 1993.

8. *EPA SLN No. AR 94 0002.* Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control annual grasses and aquatic weeds. December 1, 1993.

9. *EPA SLN No. AR 94 0003.* Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control annual grasses and aquatic weeds. December 1, 1993.

10. *EPA SLN No. AR 94 0004.* FMC Corp. Registration is for Permethrin to be used on conifer nurseries to control regeneration weevil. December 1, 1993.

11. *EPA SLN No. AR 94 0005.* DowElanco. Registration is for Chlorpyrifos to be used on cotton to control plantbugs and fleahoppers. January 1, 1994.

California

12. *EPA SLN No. CA 93 0022.* California Dept. of Food and Agriculture. Registration is for Chlorophacinone to be used on artichokes to control meadow voles. January 3, 1994.

13. *EPA SLN No. CA 93 0023.* Gowan Co. Registration is for Botran 75W to be used on fennel (sweet anise) to control white mold. January 1, 1994.

14. *EPA SLN No. CA 94 0001.* DowElanco. Registration is for Chlorpyrifos to be used on brassica (cole) to control aphids and worms. January 4, 1994.

15. *EPA SLN No. CA 94 0002.* Gowan Co. Registration is for Trifluralin to be used on clover grown for seed to control weeds. January 1, 1994.

16. *EPA SLN No. CA 94 0003.* Gowan Co. Registration is for Trifluralin to be used on bermuda grass to control annual grasses and broadleaf weeds. February 5, 1994.

17. *EPA SLN No. CA 94 0004.* Uniroyal Chemical Co., Inc. Registration is for Diflubenzuron to be used on walnuts to control codling moths. January 5, 1994.

18. *EPA SLN No. CA 94 0005.* FMC Corp. Registration is for Carbofuran to be used on grapevines to control grape phyloxera. February 9, 1994.

19. *EPA SLN No. CA 94 0008.* Uniroyal Chemical Co., Inc. Registration is for Propargite to be used on roses to control spider mites. March 8, 1994.

Delaware

20. *EPA SLN No. DE 93 0004.* DowElanco. Registration is for Chorpyrifos to be used on sweet corn to control armyworms and corn earworm larvae. January 4, 1994.

Florida

21. *EPA SLN No. FL 94 0001.* Florida Tropical Fish Farms Association. Registration is for Bayluscide to be used on fresh-water ponds to control fresh-water snails. February 7, 1994.

Georgia

22. *EPA SLN No. GA 93 0008.* American Liquid Fertilizer Co., Inc. Registration is for Permethrin to be used on conifer nurseries to control regeneration weevils. December 8, 1993.

23. *EPA SLN No. GA 94 0001.* Valent U.S.A. Corp. Registration is for Acephate to be used on peanuts to control thrips. February 1, 1994.

24. *EPA SLN No. GA 94 0002.* FMC Corp. Registration is for Bifenthrin to be used on turfgrass to control insects. February 5, 1994.

25. *EPA SLN No. GA 94 0003.* FMC Corp. Registration is for Bifenthrin to be used on turfgraass to control insects. February 5, 1994.

26. *EPA SLN No. GA 94 0004.* Rohm & Haas Co. Registration is for Mancozeb to be used on tobacco to control blue mold and damping-off. February 8, 1994.

27. *EPA SLN No. GA 94 0005.* Unocal Petroleum Products, Chemicals Div. Registration is for Wilthin to be used on peaches to control blooms. March 1, 1994.

28. *EPA SLN No. GA 94 0006.* Zeneca, Inc. Registration is for Gramoxone Extra Herbicide to be used on cotton to control weeds. March 4, 1994.

Idaho

29. *EPA SLN No. ID 93 0005.* U. S. Dept. of Agriculture. Registration is for Zinc Phosphide to be used on wheat to control field mice. February 4, 1994.

30. *EPA SLN No. ID 93 0010.* Hoechst-Roussel Agri-Vet Co. Registration is for Tralomethrin to be used on alfalfa grown for seed to control insects. February 4, 1994.

31. *EPA SLN No. ID 93 0011.* Setre Chemical Co. Registration is for Dimethoate to be used on lentils to control aphids. February 4, 1994. (CUP)

Kentucky

32. *EPA SLN No. KY 93 0002.* FMC Corp. Registration is for Clomazone to be used on winter squash to control grasses and broadleaf weeds. March 5, 1994.

33. *EPA SLN No. KY 94 0001.* FMC Corp. Registration is for Ferbam to be used on tobacco seedlings to control tobacco blue mold. February 8, 1994.

34. *EPA SLN No. KY 94 0002.* Rohm & Haas Co. Registration is for Mancozeb to be used on tobacco seedlings to control tobacco plant bed disease. March 9, 1994.

Louisiana

35. *EPA SLN No. LA 93 0022.* PBI Gordon Corp. Registration is for Hi-Dep Broadleaf to be used on preplant rice to control annual and perennial weeds. December 1, 1993.

36. *EPA SLN No. LA 93 0026.* Monsanto Agricultural Co. Registration is for Roundup D-Pak Herbicide to be used on sugarcane to control weeds. January 1, 1994.

Maine

37. *EPA SLN No. ME 94 0001.* Pro Serve, Inc. Registration is for Hexazinone to be used on nonbearing blueberry to control annual grasses. February 4, 1994. (CUP)

38. *EPA SLN No. ME 94 0002.* Rohm & Haas Co. Registration is for Mancozeb to be used on potatoes to control late blight. February 5, 1994.

39. *EPA SLN No. ME 94 0003.* Rohm & Haas Co. Registration is for Mancozeb to be used on potatoes to control late blight. February 5, 1994.

40. *EPA SLN No. ME 94 0004.* FMC Corp. Registration is for Clomazone to be used on winter squash to control grasses and broadleaves. March 1, 1994.

Michigan

41. *EPA SLN No. MI 94 0001.* DowElanco. Registration is for Chlorpyrifos to be used on grapes to control climbing cutworms. February 3, 1994.

42. *EPA SLN No. MI 94 0002.* DowElanco. Registration is for Chlorpyrifos to be used on onions (dry bulb) to control onion maggot. February 3, 1994.

43. *EPA SLN No. MI 94 0003.* Rohm & Haas Co. Registration is for Pronamide to be used on rhubarb to control weeds. March 9, 1994.

Minnesota

44. *EPA SLN No. MN 94 0001.* Rohm & Haas Co. Registration is for Oxyfluorfen to be used on windbreaks to control weeds. March 4, 1994.

45. *EPA SLN No. MN 94 0002.* Nortech Forest Products, Inc. Registration is for Denatonium Benzoate to be used on shrubs and conifers to control deer. March 9, 1994.

46. *EPA SLN No. MN 94 0003.* Micro-Flo Co. Registration is for Malathion to be used on wild rice to control wild rice worm. March 9, 1994.

Mississippi

47. *EPA SLN No. MS 94 0001.* Rohm & Haas Co. Registration is for Oxyfluorfen to be used on fallow beds preplant to control weeds. February 5, 1994.

48. *EPA SLN No. MS 94 0002.* Albaugh, Inc. Registration is for 2,4-D Amine 4 to be used on rice in late tillery to control weeds. February 3, 1994.

Missouri

49. *EPA SLN No. MO 93 0008.* Wilbur-Ellis Co. Registration is for Chlorothalanil to be used on assorted deciduous, bare foot, ornamental nursery stock to control fungi. January 1, 1993.

50. *EPA SLN No. MO 94 0001.* DowElanco. Registration is for Chlorpyrifos to be used on grapes to control cutworms. January 1, 1994.

Montana

51. *EPA SLN No. MT 93 0008.* Gustafson, Inc. Registration is for Tops MZ to be used on potato seed pieces to control fusarium. December 8, 1993.

52. *EPA SLN No. MT 94 0001.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Hexazinone to be used on forage alfalfa to control weeds. March 1, 1994.

New Jersey

53. *EPA SLN No. NJ 94 0001.* Gustafson, Inc. Registration is for Carboxin to be used on onion seed to control onion smut. February 8, 1994.

54. *EPA SLN No. NJ 94 0002.* Miles, Inc. Registration is for Guthion to be used on parsley to control carrot weevil. March 1, 1994.

55. *EPA SLN No. NJ 94 0003.* Miles, Inc. Registration is for Guthion to be used on parsley to control carrot weevil. March 1, 1994.

New York

56. *EPA SLN No. NY 94 0001.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Nicosulfuron to be used on field corn to control weeds. February 3, 1994.

North Carolina

57. *EPA SLN No. NC940001.* Rohm & Haas Co. Registration is for Mancozeb to be used on tobacco seedlings to control tobacco plant bed disease. March 9, 1994.

Oregon

58. *EPA SLN No. OR 93 0007.* Ciba-Geigy Corp. Registration is for Methidathion to be used on alfalfa to control insects. December 6, 1993.

59. *EPA SLN No. OR 93 0008.* Gustafson, Inc. Registration is for Thiabendazole to be used on chickpeas to control ascochyta blight. December 9, 1993.

60. *EPA SLN No. OR 93 0009.* Zeneca, Inc. Registration is for Paraquat Dichloride to be used on hops to control weeds and for chemical pruning. December 1, 1993.

61. *EPA SLN No. OR 93 0010.* Zeneca, Inc. Registration is for Captan to be used on raspberries and blackberries to control anthracnose and botryti. December 3, 1993.2

62. *EPA SLN No. OR 93 0011.* Zeneca, Inc. Registration is for Captan to be used on raspberries and blackberries to control anthracnose and botryti. December 3, 1993.

63. *EPA SLN No. OR 93 0012.* Miles, Inc. Registration is for Triadimefon to be used on poplar trees to control leaf rust. December 1, 1993.

64. *EPA SLN No. OR 93 0013.* Round Butte Seed Growers, Inc. Registration is for Orthene to be used on seed carrots to control lygus bugs. December 7, 1993.

65. *EPA SLN No. OR 93 0014.* Central Oregon Seed, Inc. Registration is for Orthene 75S to be used on seed carrots to control lygus bugs. December 7, 1993.

66. *EPA SLN No. OR 93 0016.* Isk Biotech Corp. Registration is for Maneb, Copper Oxychloride to be used on bulbing ornamentals to control diseases. December 8, 1993.

67. *EPA SLN No. OR 93 0017.* Elf Atochem North America, Inc. Registration is for Ziram to be used on apples and pears to control scab and bulls eye rot. December 1, 1993. (CUP)

68. *EPA SLN No. OR930018.* Zeneca, Inc. Registration is for Diquat Dibromide to be used on potato plants for potato plant desiccation. December 8, 1993.

69. *EPA SLN No. OR 93 0019.* Zeneca, Inc. Registration is for Paraquat and Diquat to be used on alfalfa for preharvest desiccant. December 8, 1993. (CUP)

70. *EPA SLN No. OR 93 0020.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Diuron to be used on fine fescue seeds to control weeds. January 3, 1994.

71. *EPA SLN No. OR 93 0021.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Sulfometuron Methyl to be used on ponderosa pine to control weeds. December 1, 1993.

72. *EPA SLN No. OR 93 0022.* Oregon Meadowfoam Growers Association. Registration is for Metolachlor to be used on meadowfoam to control weeds. December 1, 1993.

73. *EPA SLN No. OR 93 0023.* Drexel Chemical Co. Registration is for Diuron to be used on grass grown for seed to control weeds. December 1, 1993.

74. *EPA SLN No. OR 93 0024.* Gustafson, Inc. Registration is for Tops MZ to be used on potato seed pieces to control fungal diseases. December 1, 1993.

Pennsylvania

75. *EPA SLN No. PA 94 0001.* FMC Corp. Registration is for Carbofuran to be used on cucurbits and melons to control striped cucumber beetle. February 8, 1994.

76. *EPA SLN No. PA 94 0002.* Platte Chemical Co., Inc. Registration is for Ethalfluralin to be used on cucumbers and melons to control broadleaf weeds. March 8, 1994.

Puerto Rico

77. *EPA SLN No. PR 93 0004.* Ochoa Fertilizer Co., Inc. Registration is for Sethoxydim to be used on seed corn to control weeds. January 5, 1994.

South Carolina

78. *EPA SLN No. SC 94 0001.* Zeneca, Inc. Registration is for Fomesafen to be used on pine seedling nursery to control yellow nutsedge. January 1, 1994.

79. *EPA SLN No. SC 94 0002.* Rohm & Haas Co. Registration is for Oxyfluorfen to be used on conifer seedbeds to control grassy and broadleaf weeds. March 1, 1994.

80. *EPA SLN No. SC 94 0003.* Zeneca, Inc. Registration is for Diquat Dibromide to be used on tomato vines to control sweet potato whitefly. March 7, 1994.

81. *EPA SLN No. SC 94 0005.* FMC Corp. Registration is for Carbofuran to be used on cucurbits to control striped cucumber beetles. March 2, 1994.

Tennessee

82. *EPA SLN No. TN 94 0001.* DowElanco. Registration is for Chlorpyrifos to be used on grapes to control grape root borer. January 1, 1994.

83. *EPA SLN No. TN 94 0002.* Elf Atochem North America, Inc. Registration is for Aquathol K Aquatic H to be used on aquatic places to control weeds. February 7, 1994.

84. *EPA SLN No. TN 94 0003.* Zeneca, Inc. Registration is for Paraquat to be used on no-till cotton to control annual grass and broadleaf weeds. March 4, 1994.

85. *EPA SLN No. TN 94 0004.* Rohm & Haas Co. Registration is for Mancozeb to be used on tobacco seedlings to control tobacco plant bed disease. March 8, 1994.

86. *EPA SLN No. TN 94 0005.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Cyanazine to be used on no-till cotton to control weeds. March 4, 1994.

Texas

87. *EPA SLN No. TX 93 0025.* Soil Chemicals Corp. Registration is for Methyl Bromide to be used as commodity fumigant to control insects. December 6, 1993. (CUP)

Utah

88. *EPA SLN No. UT 93 0005.* Clarke Mosquito Control Products Co., Inc. Registration is for Chlorpyrifos to be used on noncrop standing water to control mosquito larvae. December 8, 1993.

Vermont

89. *EPA SLN No. VT 94 0001.* Platte Chemical Co., Inc. Registration is for Ethalfluralin to be used on winter pumpkins and summer squash to control weeds. March 1, 1994.

Washington

90. *EPA SLN No. WA 93 0025.* Gustafson, Inc. Registration is for Thiolphanate-methyl to be used on potato seed pieces to control fusarium and rhizoctonia. December 6, 1993.

91. *EPA SLN No. WA 93 0026.* Rhone-Poulenc Ag Co. Registration is for Iprodione to be used for treating seed peas to control ascochyta blight. December 4, 1993.

92. *EPA SLN No. WA 93 0027.* Rhone-Poulenc Ag Co. Registration is for Iprodione to be used on seed peas for export to control ascochyta blight. December 2, 1993.

93. *EPA SLN No. WA 94 0001.* Rhone-Poulenc Ag Co. Registration is for Iprodione to be used on carrot seed to control fungi. January 1, 1994.

94. *EPA SLN No. WA 94 0002.* DowElanco. Registration is for Chlorpyrifos to be used on carrots to control cutworms, lygus. January 6, 1994.

95. *EPA SLN No. WA 94 0003.* DowElanco. Registration is for Chlorpyrifos to be used on grapes to control cutworms. January 6, 1994.

96. *EPA SLN No. WA 94 0004.* DowElanco. Registration is for Chlorpyrifos to be used on strawberries to control garden symphylans. January 6, 1994.

97. *EPA SLN No. WA 94 0005.* Amvac Chemical Corp. Registration is for Metam 426 to be used on fruit orchards to control replant diseases. January 1, 1994.

98. *EPA SLN No. WA 94 0006.* Rhone-Poulenc Ag Co. Registration is for Iprodione to be used on carrot seed to control fungi. February 1, 1994.

99. *EPA SLN No. WA 94 0007.* U.S. Hop Industry. Registration is for Propargite to be used on hops to control two-spotted spider mites. February 8, 1994. (CUP)

100. *EPA SLN No. WA 94 0008.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Mancozeb to be used on pears to control pear psylla nymphs. February 9, 1994. (CUP)

101. *EPA SLN No. WA 94 0009.* Gowan Co. Registration is for Botran 75W Fungicide to be used on potatoes to control white mold. February 5, 1994.

102. *EPA SLN No. WA 94 0010.* Gowan Co. Registration is for Bensulide to be used on bulb onions to control watergrass and pigweed. February 5, 1994.

103. *EPA SLN No. WA 94 0011.* Zeneca, Inc. Registration is for Fonofos to be used on irish potatoes to control wireworms. February 3, 1994.

104. *EPA SLN No. WA 94 0012.* Zeneca, Inc. Registration is for Fonofos to be used on asparagus to control garden symphylans. February 3, 1994.

105. *EPA SLN No. WA 94 0013.* ISK Biotech Corp. Registration is for Chlorothalonil to be used on ornamental bulbs to control rot. March 2, 1994. (CUP)

106. *EPA SLN No. WA 94 0014.* Rohm & Haas Co. Registration is for Mancozeb to be used on pears to control psylla nymphs. March 6, 1994.

107. *EPA SLN No. WA 94 0015.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Metsulfuron Methyl to be used on winter wheat and barley to control potential drifting. March 9, 1994.

108. *EPA SLN No. WA 94 0016.* E. I. Du Pont De Nemours & Co., Inc. Registration is for Diuron to be used on peppermint to control weeds. March 1, 1994.

109. *EPA SLN No. WA 94 0018.* DowElanco. Registration is for Ethalfluralin to be used on alfalfa grown for seed to control nightshade and dodder. March 8, 1994.

110. *EPA SLN No. WA 94 0021.* Rhone-Poulenc Ag Co. Registration is for Carbaryl to be used on apples to control fruit thinning. March 1, 1994.

Wisconsin

111. *EPA SLN No. WI 94 0001.* Ciba-Geigy Corp. Registration is for Metolachlor to be used on cabbage to control weeds. December 2, 1993.

112. *EPA SLN No. WI 94 0002.* ISK Biotech Corp. Registration is for Chlorothalonil to be used on cranberries to control fungi. December 1, 1993.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, State registrations.

Dated: June 28, 1994.

Norman W. Chlosta,

Acting Director, Program Management and Support Division, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 94–16982 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

[PF–600; FRL–4871–5]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions and food/feed additive petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities. The notice also announces the withdrawal of a food/feed additive petition (FAP).

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential

may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Attention: [Product Manager (PM) named in the petition], Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/ telephone number	Address
George LaRocca (PM-13).	Rm. 204, CM #2, 703-305-6100.	1921 Jefferson Davis Hwy., Arlington, VA.
Phil Hutton (PM-18).	Rm. 213, CM #2, 703-305-7690.	Do.
Dennis Edwards (PM-19).	Rm. 207, CM #2, 703-305-6386.	Do.
Steve Robbins (Acting PM-21).	Rm. 259, CM #2, 703-305-6900.	Do.
Cynthia Giles-Parker (PM-22).	Rm. 229, CM #2 703-305-5540.	Do.
Joanne Miller (PM-23).	Rm. 237, CM #2, 703-305-7830.	Do.
Robert Taylor (PM-25).	Rm. 241, CM #2, 703-305-6800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food/feed additive (FAP) petitions as follows proposing the establishment and/or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities. There is also one petition withdrawal.

Initial Filings

1. *PP 4F4281.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend 40 CFR 180.399 by establishing a tolerance to permit combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer 3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and its metabolite 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on canola (rape seed) at 0.1 part per million (ppm). (PM-21)

2. *PP 4F4285.* Miles, Inc., Agricultural Division, 84 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR part 180 by establishing a tolerance to permit combined residues of imidacloprid, 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine, and its metabolites containing the 6-chloropyridinyl moiety in or on mango at 0.25 ppm. (PM-19)

3. *PP 4F4291.* FMC Corp., Agricultural Chemicals Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR 180.418 by establishing a tolerance to permit residues of the insecticide cypermethrin [(±) *alpha*-cyano-(3-phenoxyphenyl)methyl (±)*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] in or on the brassica crop grouping: 2.0 ppm in or on head and stem brassicas and 14.0 ppm in or on leafy brassicas. (PM-13)

4. *PP 4F4293.* Du Pont, Agricultural Products, Barley Mill Plaza, P. O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 180.184 by amending the existing tolerance residue of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on wheat straw from 0.5 ppm to 2.0 ppm. (PM-25)

5. *PP 4F4309.* Miles, Inc., Agricultural Division, P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR 180.436 by establishing a tolerance to permit residues of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on sweet corn, forage at 54.0 ppm; alfalfa, hay at 10.0 ppm; soybean, forage at 10.0 ppm; alfalfa, forage at 5.0 ppm; soybean, hay at 1.5 ppm; sunflower, forage at 1.0 ppm; sweet corn at 0.05 ppm; soybean, bean at 0.03 ppm; and sunflower, seed at 0.02 ppm. (PM-13)

6. *PP 4F4312.* Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, proposes to amend 40 CFR 180.364 by establishing a tolerance to permit combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] and its metabolite aminomethylphosphonic acid (AMPA) resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate in or on alfalfa, hay at 200 ppm and alfalfa, forage at 75 ppm. (PM-25)

7. *PP 4F4313.* Miles, Inc., Agricultural Division, 8400 Hawthorn Rd., Kansas City, MO 64120-0013, proposes to amend 40 CFR 180.436 by establishing a tolerance to permit residues of the insecticide cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate, in or on citrus, fruits at 0.2 ppm. (PM-13)

8. *PP 4F4314.* D–I–1–4, Inc., 15401 Cartwright Rd., Boise, ID 83703, proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for the plant growth regulator 1,4-dimethylnaphthalene in or on stored commodities when used post harvest as a sprout inhibitor for stored commodities. (PM-22)

9. *PP 4F4315.* Ciba Plant Protection, Ciba-Geigy Corp., P. O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR part 180 by establishing a tolerance to permit residues of (4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, proposed common name fludioxonil, in or on sorghum, grain at 0.1 ppm, corn grain at 0.04 ppm, corn forage at 0.04 ppm, corn fodder at 0.04 ppm, sweet corn (kernels plus cob with husks removed) at 0.04 ppm, sorghum, forage at 0.04 ppm, and sorghum, fodder at 0.04 ppm. (PM-25)

10. *PP 4F4316.* Rhone-Poulenc Ag Co., P. O. Box 12014, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend 40 CFR 180.399 by establishing a tolerance to permit the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(methylethyl)-2,4-dioxo-1-imidazolidinecarboximide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide] in or on grapes at 10 ppm. (PM-21)

11. *PP 4F4318.* Mycotech Corp., 630 Utah Ave., P.O. Box 4109, Butte, MT 59701, proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Beauveria bassiana*, Strain GHA, in or on alfalfa, corn, potatoes, rapeseed (canola), safflower, small grain crops, soybeans, sugarbeets, and sunflower. (PM-18)

12. *PP 4F4320.* Miles, Inc., P.O. Box 4913, 8400 Hawthorn Rd., Kansas City, MO 64120-0013, proposes to amend 40 CFR part 180 by establishing a tolerance to permit combined residues of the fungicide *beta*-(4-chlorophenoxy)-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol and its butanediol metabolite, 4-(4-chlorophenoxy)-2,2-dimethyl-4-(1*H*-1,2,4-triazol-yl)-1,3-

butanediol, calculated as triadimenol, in or on barley, straw at 0.2 ppm; oats, straw at 0.2 ppm; and wheat, straw at 0.2 ppm. (PM-22)

13. *PP 4F4322.* Du Pont, Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE, proposes to amend 40 CFR part 180 by establishing a tolerance to permit residues of the herbicide tribenuron (methyl 2[[[[*N*-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) methylamino]carbonyl] amino] sulfonyl] benzoate) in or on grass, seed; grass, seed straw; grass, seed cleanings (screenings) at 0.04 ppm. (PM-23)

14. *PP 4F4324.* Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposes to amend 40 CFR part 180 by establishing a tolerance to permit the residues of the fungicide mancozeb in or on almond hulls at 10 ppm and almond nut at 0.1 ppm. (PM-21)

15. *PP 4F4327.* Valent, USA, Corp., 1333 North California Blvd., Suite 600, P.O. Box 8025, Walnut Creek, CA 94596-8025, proposes to amend 40 CFR part 180 by establishing a tolerance to permit residues of the insecticide fenpropathrin [*alpha*-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate] in or on peanuts, vines and peanuts, hay (dried) at 20 ppm; milk fat at 2.0 ppm (reflecting 0.08 ppm in whole milk); fat (cattle, goats, hogs, horses, and sheep) at 1.0 ppm; peanut hull at 0.3 ppm; meat and meat byproducts (cattle, goats, hogs, horses, and sheep) at 0.1 ppm; poultry meat, fat, meat byproducts and eggs at 0.05 ppm; and peanut nut meat at 0.01 ppm. (PM-13)

16. *PP 4F4329.* DuPont Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes conversion of fenvalerate tolerances (40 CFR 180.379, 185.1300, 186.1300) to esfenvalerate tolerances, *S-alpha*-cyano(3-phenoxyphenyl)methyl *S*-4-chloro-*alpha*-(1-methylethyl)benzeneacetate, in or on the following RAC's (current fenvalerate tolerance followed by proposed esfenvalerate tolerance in parts per million): Carrots 0.5, 0.5; potatoes 0.02, 0.02; radish, roots 0.3, 0.3; turnip, roots 8.0, 3.0; turnip, tops 20.0, 7.0; broccoli 2.0, 1.0; cabbage 10.0, 3.0; cauliflower 0.5, 0.5; collards 10.0, 3.0; beans, snap 2.0, 1.0; beans, dried 0.25, 0.25; peas 1.0, 1.0; peas, dried 0.25, 0.25; soybeans 0.05, 0.05; eggplant 1.0, 0.5; peppers 1.0, 0.5; tomatoes 1.0, 0.5; cucumbers 0.5, 0.5; pumpkins 1.0, 0.5; winter squash 1.0, 0.5; summer squash 0.5, 0.5; cantaloupes 1.0, 0.5; honeydew melons 1.0, 0.5; muskmelons 1.0, 0.5; watermelon 1.0, 0.5; apples 2.0, 1.0; pears 2.0, 1.0; stone fruit 10.0, 3.0; blueberries 3.0, 1.0; caneberries 3.0, 1.0; currants 3.0, 1.0; elderberries 3.0, 1.0; gooseberries 3.0, 1.0; huckleberries 3.0, 1.0; almonds 0.2, 0.2; almond hulls 15.0, 5.0; filberts 0.2, 0.2; pecans 0.2, 0.2; English 0.2, 0.2; corn, grain 0.02, 0.02; corn, sweet 0.1, 0.1; corn, fodder 50.0, 15.0; corn, forage 50.0, 15.0; cottonseed 0.2, 0.2; peanuts 0.02, 0.02; peanut hulls 0.10, 0.10; sugarcane 2.0, 1.0; sunflower seed 1.0, 0.5; artichokes 0.2, 0.2. (PM 13)

17. *PP 4F4330.* Miles, Inc., Agricultural Division, 8400 Hawthorn Rd., P.O. Box 4915, Kansas City, MO 64120-0013, proposes to amend 40 CFR 180.436 by establishing a tolerance to permit residues of the insecticide cyfluthrin, *cyano*-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on potatoes at 0.01 ppm. (PM-13)

18. *PP 4F4333.* Rohm & Haas Co., 100 Independence Mall West, Philadelphia, PA 19106, proposes to amend 40 CFR part 180 by establishing a tolerance to permit the residues of mancozeb in or on broccoli at 13 ppm, cabbage at 10 ppm, lettuce at 10 ppm, and peppers at 7 ppm. (PM-21)

19. *FAP 4H5681.* Hoechst-Roussel Agri-Vet Co., Route 202-206, P.O. Box 2500, Somerville, NJ 08876-1258, proposes to amend 40 CFR part 185 by establishing a food additive regulation to permit combined residues of the insecticide tralomethrin, (*S*)*alpha-cyano*-3-phenoxybenzyl(1*R*,3*S*)-2,2-dimethyl-3-[(*RS*)1,2,2,2-tetrabromoethyl]-cyclopropanecarboxylate, and its metabolites, *cis*-deltamethrin, (*S*)-*alpha-cyano*-3-phenoxybenzyl(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, and trans-deltamethrin, (*S*)*alpha*-cyano-3-phenoxybenzyl(1*S*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, calculated as parent, in sorghum grain bran, dry, at 2.5 ppm, sorghum grain bran, wet, at 20.0 ppm, and sorghum grain dust at 5.0 ppm. (PM-13)

20. *FAP 4H5683.* Du Pont Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0083, proposes to amend 40 CFR parts 185 and 186 by establishing food/feed additive tolerances for residues of the herbicide hexazinone, [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*,3*H*)-dione], in or on sugarcane bagasse at 0.5 ppm and sugarcane molasses at 5 ppm. (PM-23)

21. *FAP 4H5684.* BASF Corp., Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709-3528, proposes to amend 40 CFR 186.2275 to increase the feed additive tolerance for residues of mepiquat chloride (1,1-dimethylpiperidinium chloride) on cottonseed meal from 3.0 ppm to 4.0 ppm. (PM-22)

22. *FAP 4H5686.* Miles, Inc., Agricultural Division, P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR 186.1250 by establishing a feed additive regulation to permit the residues of the insecticide cyfluthrin (*cyano*(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl cyclopropane carboxylate) in sunflower, hulls at 2.5 ppm and soybean, hulls at 0.1 ppm. (PM-13)

23. *FAP 4H5687.* Miles, Inc., Agricultural Division, 8400 Hawthorn Rd., Kansas City, MO 64120-0013,. proposes to amend 40 CFR 185.1250 and 186.1250 by establishing a food/feed additive regulation to permit the residues of the insecticide cyfluthrin, (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl cyclopropane carboxylate, in or on citrus, oil at 1.0 ppm, citrus, dried pulp at 1.0 ppm, and citrus, molasses at 0.5 ppm. (PM-13)

24. *FAP 4H5689.* Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposes to amend 40 CFR parts 185 and 186 by establishing a food/feed additive regulation to permit combined residues of fenbuconazole, *alpha*-[2-(4-chlorophenyl)ethyl]-*alpha*-phenyl-1*H*-1,2,4-triazole-1-propanenitrile, and its diastereomeric metabolites *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-2-(3*H*)-furanone], *trans*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole1-yl-methyl)-2-(3*H*)-furanone, in or on dried prunes at 7.0 ppm. (PM-22)

25. *FAP 4H5690.* Valent U.S.A. Corp., 1333 N. California Blvd., Walnut Creek, CA 94596-8025, proposes to amend 40 CFR parts 185 and 186 by establishing a food/feed additive regulation to permit the residues of fenpropathrin, *alpha*-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate, in peanut oil at 0.05 ppm and peanut soapstock at 0.02 ppm. (PM-13)

26. *FAP 4H5691.* Rhone-Poulenc Ag Co., P. O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend 40 CFR part 186 by establishing a feed additive regulation to permit the combined residues of aldicarb, aldicarb sulfoxide, and algicarb sulfone in or on wheat and barley straw at 0.06 ppm. (PM-19)

27. *FAP 4H5692.* Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, proposes to amend 40 CFR 186.3500 by establishing a feed additive regulation to permit the combined residues of the herbicide glyphosate, *N*-(phosphonomethyl)(glycine), and its metabolite aminomethylphosphonic acid (AMPA) in alfalfa meal at 400 ppm. (PM-25)

28. *FAP 4H5693.* Merck & Co., Inc., P.O. Box 450, Three Bridges, NJ 08887-0450, proposes to amend 40 CFR 186.300 by establishing a feed additive regulation to permit combined residues of abamectin and its delta 8,9 isomer in or on apples, wet pomace at 0.10 ppm. (PM-13)

Withdrawn Petition

29. *FAP 9H5575.* Notice appeared in the **Federal Register** of March 23, 1989 (54 FR 12010), that Mobay Corp., (now Miles, Inc.), P.O. Box 4913, Kansas City, MO 64120-0013, proposed to amend 40 CFR parts 185 and 186 by establishing a regulation to permit the residues of the fungicide terbuconazole (*α*-[2-(4-chlorophenyl)ethyl[-*α*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol) in or on barley milled fractions (except flour) at 1.0 ppm, wheat milled fractions (except flour) at 1.0 ppm, grape pomace (dry) at 12.0 ppm, and raisin waste at 6.0 ppm. Miles, Inc., has requested that the petition be withdrawn without prejudice to future filing. (PM 21)

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food and feed additives, Pesticides and pests.

Authority: 7 U.S.C. 136a.

Dated: June 27, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–16861 Filed 7–12–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–41041; FRL–4870–4]

Thirty-Fourth Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The TSCA Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Thirty-Fourth Report to the Administrator of EPA on May 17, 1994. As noted in this Report, which is included with this notice, the ITC revised the *Priority Testing List* by: (1) changing a recommendation for one chemical, white phosphorus, to a designation, (2) recommending two chemicals, ethyl tert-butyl ether and tert-amyl methyl ether, and (3) removing eight chemicals from the *List*. The eight chemicals being removed from the *List* are: methyl methacrylate, diethyl phthalate, *N*-phenyl-1-naphthylamine, acetophenone, phenol, *N,N*-dimethylaniline, ethyl acetate, and 2,6-dimethylphenol. The Report states the reasons for the removal of these chemicals from the *List*. EPA invites interested persons to submit written comments on the Report.

In addition, EPA is soliciting interested parties for participation in or monitoring of a TSCA section 4 testing consent agreement development process for white phosphorus that was designated for amphibian, reptile, wild mammal, and aquatic plant acute toxicity testing; and terrestrial plant uptake and translocation testing. EPA is also inviting manufacturers and/or processors of white phosphorus who wish to participate in testing negotiations for white phosphorus to develop and submit testing agreement proposals to EPA.

EPA has already solicited interested parties in developing testing agreements for ethyl tert-butyl ether and tert-amyl methyl ether (59 FR 18399, April 18, 1994).

DATES: Written comments on the 34th ITC Report should be submitted by August 12, 1994. Written testing proposals must be received by September 12, 1994. Written notice of interest in being designated an "interested party" to the development or monitoring of a consent agreement for white phosphorus must be received by September 12, 1994. Those submitting written testing proposals will be considered "interested parties" and do not have to submit separate written notice. EPA will contact all "interested parties" and advise them of meeting dates.

ADDRESSES: Send six copies of written submissions to: TSCA Public Docket Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. B–607 NEM, 401 M St., SW., Washington, DC 20460. Submissions should bear the document control number (OPPTS–41041; FRL–4870–4).

The public record supporting this action, including comments, is available for public inspection in Rm. B–607 NEM at the address noted above from 12 noon to 4 p.m., Monday through Friday, except legal holidays.

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

SUPPLEMENTARY INFORMATION: EPA has received the TSCA Interagency Testing Committee's Thirty-Fourth Report to the Administrator.

I. Background

TSCA (Pub. L. 94–469, 90 Stat. 2003 et seq; 15 U.S.C. 2601 et seq.) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemicals and chemical groups in order to develop data relevant to determining the risks that such chemicals and chemical groups may present to health or the environment. Section 4(e) of TSCA established the Interagency Testing Committee to recommend chemicals and chemical groups to the Administrator of EPA for priority testing consideration. Section 4(e) directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months. The most recent revisions to this *List* are included in the ITC's Thirty-Fourth Report. The Report was received by the Administrator on May 17, 1994, and is included in this Notice. The Report changes a recommendation for one chemical, recommends two chemicals, and removes eight chemicals from the TSCA section 4(e) *Priority Testing List*.

II. Written and Oral Comments

EPA invites interested persons to submit detailed comments on the ITC's Report. All submissions should bear the identifying docket number (OPPTS–41041).

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals.

A notice will be published at a later date in the **Federal Register** adding the substances recommended in the ITC's ThirtyFourth Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716), which requires the reporting of unpublished

health and safety studies on the listed chemicals.

III. Status of List

The ITC's Thirty-Fourth Report notes the change of a recommendation for one chemical to a designation, the recommendation of two chemicals, and the removal of eight chemicals from the *Priority Testing List*. The current TSCA section 4(e) *Priority Testing List* contains 12 chemicals and 12 chemical groups, with 2 chemical groups and 3 chemicals designated for testing.

IV. Testing Consent Agreements

1. *Solicitation of interested parties.* EPA's procedures for requiring the testing of chemical substances under section 4 of TSCA include the adoption of enforceable consent agreements and the promulgation of test rules. These processes are found at 40 CFR 790.20. EPA has on numerous occasions been approached by chemical companies interested in negotiating consent agreements for testing ITC chemicals or chemical groups. As a result of these requests, EPA is now inviting persons interested in participating in or monitoring negotiations on the chemical designated in the Thirty-Fourth ITC Report to notify EPA in writing. Those who respond to this solicitation by the deadline established in this notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. These "interested parties" will not incur any obligations by being designated "interested parties."

2. *Solicitation of testing proposals for consent agreement negotiations.* EPA is also now soliciting testing proposals for a consent agreement to perform amphibian, reptile, wild mammal, and aquatic plant acute toxicity testing; and terrestrial plant uptake and translocation testing on white phosphorus. Following publication of this notice, manufacturers and/or processors have 60 days to develop and submit testing proposals that they wish EPA to consider as candidates for consent agreement negotiations for white phosphorus. Testing guidelines for the designated tests include: (1) Lemna Acute Toxicity Test at 40 CFR 797.1160, (2) Plant Uptake and Translocation Test at 40 CFR 797.2850, (3) Amphibian Acute Toxicity Test, (4) Reptilian Acute Toxicity Test, (5) Wild Mammal Acute Toxicity Test. These guidelines are available to the public through the TSCA Public Docket Office and the Environmental Assistance Division listed above. These guidelines should be reviewed before submitting any testing proposals in response to this notice.

For additional technical information on these testing guidelines contact Dr. Barnett Rattner, Department of The Interior, (301) 497–5671.

All testing proposals submitted should describe the testing to be performed and explain any deviations from the test protocols.

EPA will review the submissions and select the most promising submissions as candidates for negotiation. Submissions that fully address the ITC's concerns will have a higher chance of success than those that do not fully address all data needs.

3. *Negotiation of testing program and development of a testing consent agreement.* EPA will follow the negotiation procedures under 40 CFR 790.22, and to the extent feasible, the timetable outlined in 40 CFR part 790, appendix A to subpart B.

For additional information about process or negotiations contact Frank Kover, Chief, Chemical Testing and Information Branch, (202) 260–8130.

Authority: 15 U.S.C. 2603.

Dated: June 30, 1994.

Charles M. Auer,

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

Thirty-Fourth Report of the TSCA Interagency Testing Committee to the Administrator, U.S. Environmental Protection Agency

SUMMARY: This is the 34th Report of the TSCA Interagency Testing Committee (ITC) to the Administrator of the U.S. Environmental Protection Agency (EPA). The ITC is revising its *Priority Testing List* by changing a recommendation for one chemical, white phosphorus, to a designation for action by the Administrator within 12 months, recommending two chemicals, ethyl *tert*-butyl ether and *tert*-amyl methyl ether and by removing eight chemicals. White phosphorus is being designated to meet the data needs of the Department of Interior (DOI); discussions are ongoing with the Agency for Toxic Substances and Disease Registry (ATSDR), the Department of Defense (DOD), and EPA to coordinate their data needs with those of DOI. Ethyl *tert*-butyl ether and *tert*-amyl methyl ether are being recommended for health effects testing because EPA needs these data for ongoing assessments. Methyl methacrylate and diethyl phthalate are being removed from the *List* because dermal absorption rate data are available that are likely to satisfy the data needs of the Occupational Health and Safety Administration (OSHA). *N*-Phenyl-1-naphthylamine is being removed from the *List* because studies reviewed by the ITC did not increase concerns for cancer and the ITC's priorities do not include designating the chemical at this time. Acetophenone, phenol, *N*,*N*-dimethylaniline, ethyl acetate and 2,6-dimethylphenol are being removed from the *List* because EPA proposed the testing designated by the ITC in its 27th Report in a test rule that was published on November 22, 1993 (58 FR 61654).

I. Background

The TSCA Interagency Testing Committee (ITC) was established by section 4(e) of the Toxic Substances Control Act (TSCA):

> ...to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule for testing under section 4(a).... At least every six months..., the Committee shall make such revisions in the *List* as it determines to be necessary and to transmit them to the Administrator together with the Committee's reasons for the revisions...
>
> (Public Law 94–469, 90 Stat. 2003 et seq., 15 U.S.C. 2601 et seq.).

Since its creation in 1976, the ITC has submitted 33 semi-annual Reports to the EPA Administrator transmitting the *Priority Testing List* and its revisions. These Reports have been published in the **Federal Register** (FR) and are available from the ITC. The ITC meets monthly and produces its revisions with the help of staff and technical contract support provided by EPA. ITC membership and support personnel are listed at the end of this Report.

Following receipt of the ITC's Report and the addition of chemicals to the *Priority Testing List*, the EPA's Office of Pollution Prevention and Toxics adds these chemicals to TSCA section 8(a) and 8(d) rules that require manufacturers, processors, and/or distributors of these chemicals to submit production and exposure data (8a), and health and safety studies (8d), within 2 months of the rules' effective date. The submissions are indexed and maintained by EPA. The ITC reviews the 8(a) and 8(d) information and other available data on chemicals and chemical groups (e.g., TSCA section 8(e) "substantial risk" studies, "For Your Information" (FYI) submissions to EPA and published papers) to determine if revisions to the *Priority Testing List* are necessary. Revisions can include changing a recommendation to a designation for action by the Administrator within 12 months, modifying the recommended testing, or

removing the chemical or chemical group from the *List*.

II. Revisions to the TSCA Section 4(e) Priority Testing List

The ITC's revisions to its TSCA Section 4(e) *Priority Testing List* are summarized in the following Table 1.

TABLE 1. CHEMICALS DESIGNATED, RECOMMENDED AND REMOVED FROM THE TSCA SECTION 4(E) PRIORITY TESTING LIST

CAS No.	Chemical/Group	Action	Date
7723–14–0	White phosphorus	Designate Previously Recommended Chemical for Amphibian, Reptile, Wild Mammal, and Aquatic Plant Acute Toxicity Testing; and Terrestrial Plant Uptake and Translocation Testing.	5/94
637–92–3	Ethyl *tert*-butyl ether	Recommend for health effects testing	5/94
994–05–8	Tert-amyl methyl ether	Recommend for health effects testing	5/94
80–62–6	Methyl methacrylate	Remove Previously Recommended Chemical	5/94
84–66–2	Diethyl phthalate	Remove Previously Recommended Chemical	5/94
90–30–2	*N*-Phenyl-1-naphthylamine	Remove Previously Recommended Chemical	5/94
98–86–2	Acetophenone	Remove Previously Designated Chemical	5/94
108–95–2	Phenol	Remove Previously Designated Chemical	5/94
121–69–7	*N,N*-Dimethylaniline	Remove Previously Designated Chemical	5/94
141–78–6	Ethyl acetate	Remove Previously Designated Chemical	5/94
576–26–1	2,6–Dimethylphenol	Remove Previously Designated Chemical	5/94

III. Rationale for the revisions

A. ITC's Activities During this Reporting Period

During the 6 months covered by this Report, November 1993 through April 1994, the ITC reviewed the TSCA section 8(a) and section 8(d) submissions and other available data for white phosphorus and *N*-phenyl-1-naphthylamine and dermal absorption data for diethyl phthalate and methyl methacrylate, and made decisions with respect to their dispositions on the *Priority Testing List*.

B. Specific Rationales

1. *Designated chemical — White phosphorus*—a. *Background.* Thousands of ducks in wetlands at an artillery impact area have been poisoned by white phosphorus. The Department of Interior (DOI) is concerned about the persistence of white phosphorus in wetland sediments, the adverse effects of white phosphorus on wildlife, and the indirect effects of white phosphorus on endangered species that feed on carcasses of white phosphorus-poisoned wildlife.

In November 1991, based on DOI's data needs, the ITC recommended testing to determine the persistence of white phosphorus in surface waters and sediments and the toxicity to migratory birds and other wildlife (see the ITC's 29th Report in 56 FR 67424, December 30, 1991). Since that recommendation, the DOI has considered these and other data needs. Discussions at ITC meetings, are ongoing with the Agency for Toxic Substances and Disease Registry (ATSDR), the Department of Defense (DOD), and the U.S. Environmental Protection Agency (EPA) to coordinate their data needs with those of DOI. Several Federal Government organizations have past and ongoing activities that could result in the identification of additional data needs for white phosphorus and more ITC testing designations. Some of these activities are described below.

ATSDR is drafting a toxicological profile on white phosphorus. DOD is supporting studies on white phosphorus because it is detected in wetlands on DOD munitions testing sites. In 1990, EPA published a Drinking Water Health Advisory for white phosphorus (Ref. 20). In 1992 and 1993, EPA obtained 1991 and 1992 data under the Toxics Release Inventory (TRI), indicating that during each of these years about 300,000 pounds of white phosphorus were released to land (Ref. 17). These releases are an order of magnitude lower than reported for previous years (56 FR 67424) and reflect, in part, more accurate record keeping by white phosphorus manufacturers. In 1993, EPA and DOD conducted 4 seminars on "technologies for remediating sites contaminated with explosive and radioactive wastes" (Ref. 21). In 1993, EPA also prepared a handbook entitled "Approaches for the Remediation of Federal Sites Contaminated with Explosive and Radioactive Wastes" (Ref. 22). White phosphorus was extensively discussed in the seminars and the handbook. EPA is making a determination of whether there are health effects data needed for white phosphorus under Title III of the Clean Air Act. ITC will coordinate ATSDR, DOD and EPA data needs with those of DOI and determine if additional testing needs to be designated in a future ITC report.

The Chemical Abstracts Service (CAS) has two Registry numbers for white phosphorus: 7723–14–0, as a general number for white, yellow, black and red phosphorus, and 12185–10–3 specifically for white phosphorus. The ITC used CAS No. 7723–14–0 in the 29th Report, because it is the most commonly used for white phosphorus. It is used to record production volume and environmental release data as well as most published and unpublished studies. In response to the ITC's 29th Report testing recommendations, EPA promulgated TSCA section 8(a) and 8(d) rules for CAS No. 7723–14–0 on March 12, 1993, and for CAS No. 12185–10–3 on December 27, 1993. The manufacturers, processors and distributors of white phosphorus submitted section 8(a) reports and section 8(d) studies only for 7723–14–0.

Therefore, the ITC is only designating white phosphorus as CAS No. 7723–14–0 and requesting that EPA remove CAS No. 12185–10–3 from the TSCA section 8(d) rule.

b. *Designated testing.* To meet the data needs of DOI, the ITC is designating white phosphorus for amphibian, reptile, wild mammal and aquatic plant acute toxicity testing, and terrestrial plant uptake and translocation testing.

c. *Rationale for designation.* DOI reviewed the submitted section 8(a) and 8(d) data as well as TSCA section 8(e), FYI, and published papers for white phosphorus. It continues to be concerned about the persistence of white phosphorus in wetland sediments, adverse effects on wildlife that feed on white phosphorus-contaminated sediments, and the potential adverse effects on endangered species that feed on carcasses of wildlife that die from white phosphorus poisoning. Although DOI is working with DOD to conduct and coordinate testing and field investigations of white phosphorus, DOI has data needs that are not included in this coordinated, government-funded program. These additional data are needed by DOI to assess the ecological risks posed by white phosphorus.

d. *Supporting information.* DOI nominated white phosphorus to the ITC in 1991 because persistence and ecotoxicity data were needed to assess the ecological risks posed by white phosphorus. The results of studies submitted under TSCA section 8(d) and section 8(e), other relevant data, and ongoing activities are presented below along with the specific rationales for the designated tests.

(1) *Exposure information—production/use/disposal/exposure/release.* In 1990, approximately 700 million pounds of white phosphorus were produced (Ref. 2). Based on 1991 and 1992 TRI data, about 300,000 pounds are released annually from production facilities (Ref. 17). The amounts of white phosphorus released during munitions testing, pesticides manufacturing and other uses is unknown to the ITC.

Every year since 1980, up to 3,000 waterfowl (dabbling ducks), 50 swans, and an undetermined number of shorebirds appear to have died from white phosphorus poisoning at an artillery impact area in the estuarine wetlands of Eagle River Flats, Cook Inlet, Alaska. This wildlife mortality continues despite the fact that on September 10, 1991, the Assistant Secretary of the Army (Installations, Logistics, and Environment) suspended the Army's firing of white phosphorus munitions in wetland areas.

White phosphorus has been detected in water samples (0.013–0.069 µg/L) from Eagle River Flats (Ref. 10). White phosphorus particles have been visually identified and chemically-confirmed at concentrations of 10 ppm in sediments (Refs. 11 and 23). White phosphorus has been isolated from the gizzards of dead mallard ducks, *Anas platyrhynchos* (Ref. 11). Exposure of at least a dozen avian species has been documented through chemical detection of white phosphorus in gizzard, liver, muscle, fat or skin (Refs. 11, 13, and 23).

White phosphorus contamination at artillery impact areas is currently being investigated by Simmers et al. (Ref. 14). Sampling results from 21 of the 23 DOD installations indicate that white phosphorus was detected (detection limit of 1 µg/kg) at seven of the installations (Ref. 3).

(2) *Chemical fate information.* Degradation rates of white phosphorus solutions have been characterized in an aqueous *in vitro* test system (Ref. 4), and appear to be dependent on dissolved oxygen, pH and temperature. Under aerobic conditions, solutions of white phosphorus are rapidly oxidized (or possibly hydrolyzed or volatilized; Ref. 15) and its concentration decreases monotonically with time (282 to 1762 µg/L yielded a half-life of 3 hours for the initial 24 hour period). However, degradation rates are reduced at temperatures below 22 °C and in closed (non-aerated) test systems. Under such conditions, white phosphorus half-life increases from hours to weeks. When sediments were tested in a modified aqueous *in vitro* test system, degradation rates of white phosphorus were slower in sediment than in water (Ref. 5).

White phosphorus in sediments at the estuarine wetlands of Eagle River Flats, Alaska is often found as particulates, ranging in diameter from 0.15 to 3.5 mm (corresponding to the size range of food items and gizzard material selected by many species of waterfowl), and at sediment depths of up to 30 cm (Ref. 10). White phosphorus particles appear to be quite persistent in the saturated saline sediments of Eagle River Flats, but volatilize as sediments dry below 20 percent moisture (Ref. 23). Factors that affect persistence of white phosphorus in sediments include sediment porosity, moisture content and temperature, all of which interact to determine the rate of sublimation. Oxygen may slow sublimation by the formation of oxidation products around the particles that impose a diffusion barrier to white phosphorus vapor. Using data on the dissolution rate of white phosphorus particles in water (Ref. 15), Walsh (Ref. 23) estimated the dissolution of a 1 mm diameter white phosphorus sphere to be 8 years. The extent of particulate white phosphorus contamination in the United States remains largely unknown.

The rate of oxidation of white phosphorus particles in aerated-soil is highly variable depending on environmental conditions (Refs. 1, 12 and 24). Using a model to estimate the fate of white phosphorus particles in soil, Spanggord et al. estimated that particles buried in soil could persist for several years, and if an "oxidized coat" were formed, particles could persist for thousands of years (Ref. 15).

These data demonstrate the persistence of white phosphorus in sediments. Therefore, the ITC is not designating further chemical fate testing of white phosphorus at this time.

(3) *Health effects information.* The ITC's 29th Report summarized available health effects data for white phosphorus. These data indicate that white phosphorus is highly toxic to humans and laboratory animals (56 FR 67424; December 30, 1991). As noted in the summary of this 34th Report, discussions are ongoing with ATSDR, DOD and EPA to coordinate their data needs with those of DOI. The ITC is not designating further health effects testing at this time because those discussions have not been completed.

(4) *Ecological effects information—Acute and subchronic effects (short-term).* The ITC's 29th Report summarized laboratory and field studies for white phosphorus. These studies indicated that white phosphorus is highly toxic to aquatic organisms (56 FR 67424, December 30, 1991).

Thirty-day bioassays are currently being conducted by the U.S. Army Environmental Hygiene Agency to measure the toxicity of white phosphorus contaminated sediments from Eagle River Flats to the crustacean, *Hyallela azteca* and the midge larve, *Chironomus riparius* (Ref. 10).

The median lethal dose for adult male and juvenile mallard ducks gavaged with white phosphorus dissolved in corn oil vehicle was 6.5 mg/kg (Ref. 10). Signs of toxicity include slow rhythmic lateral head shaking, and lethargy, followed by convulsions. Birds often succumb within 1 to 2 hours, but in other instances may linger for up to 55 hours prior to death. Concentrations of white phosphorus in dosed mallards exceed 0.25 µg/g in fat, skin and liver (Refs. 10 and 11).

The acute median lethal dose of white phosphorus in female mallards is being estimated by Sparling (Ref. 16). The

females appear to be slightly more tolerant than male and juvenile birds (LD50>10 mg/kg) (Ref. 16). An estimation of the lowest observable effect level (LOEL) will be determined by Sparling (Ref. 16) using white phosphorus pellets without vehicle, because a corn oil vehicle may affect absorption and toxicity.

Increasing evidence suggests the potential for widespread white phosphorus pollution in wetlands. While white phosphorus toxicity data have been or are being developed for aquatic and avian species that inhabit wetlands. There are no white phosphorus toxicity data for amphibians, reptiles, and wild mammals that frequent temperate zone wetland habitats. In addition, some mammals, including furbearers (e.g., mink), frequent wetlands and are known to be far more sensitive to certain environmental pollutants (e.g., PCBs) than laboratory rodents. For these reasons, DOI needs amphibian, reptile, and wild mammal acute toxicity test data for its white phosphorus risk assessment.

Based on limited available data and DOI's data needs, the ITC is designating white phosphorus for amphibian, reptile, and wild mammal acute toxicity testing.

Chronic (long-term) effects. The ITC's 29th Report described laboratory studies that demonstrated the chronic toxicity of white phosphorus to aquatic organisms (56 FR 67424, December 30, 1991).

Based on these data and ongoing DOI studies, the ITC is not designating further chronic aquatic toxicity testing at this time.

Metabolism and pharmacokinetics. Data for laboratory mammals were summarized in the ITC's 29th Report (56 FR 67424, December 30, 1991). Recent studies suggest that acute white phosphorus toxicity in warm-blooded animals may be due to the nonenzymatic metabolism of white phosphorus to phosphine (Ref. 8).

A recent publication described the uptake and loss of white phosphorus in American kestrels or sparrow hawks (Falco sparverius) (Ref. 9). This study indicated that although uptake of white phosphorus was rapid, bioaccumulation is limited in American kestrels because of chemical or enzymatic degradation.

Uptake and depuration studies of white phosphorus administered to mallards below the LD50 will be studied by Sparling (Ref. 16). Pharmacokinetics will be studied by Sparling (Ref. 16) at various intervals for a 10–day period in breast muscle, gizzard, abdominal fat, skin, liver, pancreas and blood. Sparling (Ref. 16) will also study histopathological and biochemical biomarkers of exposure.

Based on these data and ongoing DOI studies, the ITC is not designating further metabolism and pharmacokinetic testing at this time.

Reproductive effects. In rats, 75 µg/kg/day of white phosphorus reduced pregnancy rates (Ref. 6), increased death rates of females in late gestation (Ref. 7), increased parturition-related difficulties (Ref. 18), and increased the number of dead pups at birth (Ref. 19). The birth defects caused by white phosphorus, and the presence of white phosphorus in herring gull eggs collected in Eagle River Flats (Ref. 8), suggest the need for reproductive effects studies in birds. DOI is planning preliminary studies to investigate fertility rates of male and female mallards repeatedly gavaged (chronic exposure) with low doses of white phosphorus (Ref. 16).

Based on the studies conducted by Monsanto and planned DOI studies, the ITC is not designating further reproductive effects testing at this time.

Other ecological effects. Predation of ducks poisoned by white phosphorus was systematically monitored at Eagle River Flats in the spring and fall of 1991 (Ref. 13). Twenty-four instances of predation of sick or dead dabbling ducks by bald eagles (*Haliaetus leucocephalus*), herring gulls (*Larus argentatus*) and common ravens (*Corvus corax*) were observed. Other predators, including northern harrier (*Circus cyaneus*) and coyotes (*Canis latrans*) have been observed to hunt over the Flats. Many decaying bald eagle carcasses have been found at or near Eagle River Flats, and the single carcass tested was positive for white phosphorus in fatty tissues (Refs. 10 and 13). Based on these observations, and the risk assessment of Roebuck et al. (Ref. 13), there is considerable potential for secondary poisoning of predators, including endangered species.

DOI will investigate secondary poisoning of predators (raptors and other scavengers) using captive American kestrels fed northern bobwhite quail chicks (Colinus virginianus) that had been gavaged with 1 mg/kg pelletized white phosphorus for a 10–day period (Ref. 16). Mortality, biochemical and histopathological biomarkers of toxicity, and white phosphorus burdens in kestrels will be studied (Ref. 16).

Based on data published by Racine (Ref. 10) and Roebuck (Ref. 13) and planned DOI studies, the ITC is not designating other ecological effects testing at this time.

Bioconcentration and food chain transport. The 29th ITC Report noted that bioconcentration of white phosphorus was studied in three species of fish, six species of invertebrates and in two species of seaweed (56 FR 67424; December 30, 1991). Fish and invertebrates have been collected at Eagle River Flats by Racine for determination of white phosphorus uptake (Ref. 10).

A recent study suggested that large predators such as bald eagles, that have the ability to ingest whole gizzards of prey birds, could bioaccumulate white phosphorus because the amount ingested could exceed the degradation capacity (Ref. 9).

Few data are available on bioconcentration and food chain transport of white phosphorus by plants. This data need concerns DOI because white phosphorus has been detected in or on the roots of salt marsh plants at Eagle River Flats (Ref. 10), and because many herbivorous wildlife species could be exposed to, and be adversely affected by, white phosphorus as a result of uptake and bioconcentration by plants.

Based on DOI's data needs, the ITC is designating white phosphorus for aquatic plant toxicity and terrestrial plant uptake and translocation testing.

2. *Recommended chemicals — Ethyl tert-butyl ether and tert-amyl methyl ether*— a. *Background.* The ITC designated methyl *tert*-butyl ether (MTBE) for health effects testing in its 20th Report because of concerns for widespread human exposure to low level fugitive emissions of MTBE at gasoline pumps and the need for chronic health effects data (52 FR 19020; May 20, 1987). In response to the ITC's designation, EPA and MTBE manufacturers negotiated a TSCA section 4 enforceable consent agreement to develop pharmacokinetics, genotoxicity, subchronic toxicity, reproductive effects, developmental toxicity, neurotoxicity, and oncogenicity data (53 FR 10391, March 31, 1988). EPA is evaluating the data from the completed MTBE testing program.

EPA needs health effects data for two other fuel oxygenates, ethyl *tert*-butyl ether (ETBE) and *tert*-amyl methyl ether (TAME) and is soliciting interest in developing testing agreements for these chemicals (59 FR 18399, April 18, 1994).

b. *Recommended testing.* Ethyl *tert*-butyl ether and *tert*-amyl methyl ether are being recommended for health effects testing because EPA needs these data for ongoing assessments.

c. *Rationale for recommendation.* The use of ETBE and TAME to augment or

substitute for MTBE as fuel oxygenates and the health effects data needs of ETBE and TAME are of concern to EPA and the ITC. Therefore, the ITC is recommending testing to obtain TSCA section 8(d) health and safety data on ETBE and TAME to support EPA's ongoing assessments of the potential hazards/risks posed by these two chemical substances. The ITC will share the data with EPA and other interested U.S. Government organizations represented on the ITC and will review these data to determine whether ETBE and TAME should be designated for testing or removed from the *Priority Testing List*. The ITC is also requesting data on acute toxicity of gasoline mixtures containing ETBE and/or TAME. The ITC's process of recommending ETBE and TAME and then making decisions following data review is consistent with the process used for MTBE. MTBE was recommended in ITC's 19th Report (51 FR 41417, November 14, 1986) and designated in ITC's 20th Report, following ITC's review of voluntarily submitted and TSCA section 8(d) data.

d. *Supporting information.* EPA's recent **Federal Register** notice provides supporting information (59 FR 18399, April 18, 1994).

The requirements of the Clean Air Act (CAA), 42 U.S.C. 7401–7671q, along with reports of adverse human health effects associated with the use of MTBE in winter-blend gasoline, have contributed to the need for health effects testing of ETBE and TAME.

MTBE, ETBE, and TAME are fuel oxygenates which may be used to satisfy the following requirements under the CAA. Under section 211(m) of the CAA, 42 U.S.C. 7545, States which have certain attainment areas for carbon monoxide (CO) must require that any gasoline sold or dispensed to ultimate customers in a specified portion of the nonattainment area be blended, during wintertime, to contain not less than 2.7 percent oxygen by weight (or applicable percentage to meet the national primary air quality standard for CO by the established attainment date). Under section 211(k), reformulated gasoline must be used in nonattainment areas in nine major metropolitan areas that are designated as ozone nonattainment areas as well as various nonattainment "opt-in" areas by 1995 and the oxygen content of this gasoline must be equal to or exceed 2 percent by weight. See Final Rule, Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline, February 16, 1994 (59 FR 7716). In addition, a proposed regulation [by EPA's Office of Air and Radiation] would require that at least 30 percent of the oxygen content of reformulated gasoline come from renewable oxygenates, which would include ETBE. See OAR/EPA Notice of Proposed Rulemaking, regulation of Fuels and Additives: Renewable Oxygenate Requirement for Reformulated Gasoline, December 27, 1993 (58 FR 68343).

Recently, there have been reports from the State of Alaska and several areas in the lower 48 states of adverse human health effects [(e.g., headache, nausea, general malaise)] associated with the use of MTBE in winter-blend gasoline. (See Assessment of Potential Health Risks of Gasoline Oxygenated with MTBE, Office of Research and Development, U.S. EPA, November 1993.)

EPA believes that additional health effects test data on fuel oxygenates are needed to allow government agencies and industry to compare the health risks associated with the use of these substances to augment or substitute for MTBE as a fuel oxygenate....

(1) *Exposure information—production/use/disposal/exposure/release.* Estimates published in 1991 indicate that by 1995, annual production volumes of ETBE and TAME are expected to exceed 26 million pounds (Refs. 29 and 30) and 6 billion pounds (Ref. 35), respectively. Estimates published in 1994 indicate that by 1995, about 335,000 barrels per day (32 billion pounds per year) of oxygenates will be needed to meet oxygenated-and reformulated-fuel mandates (Ref. 28). Consumer, occupational or environmental exposures to ETBE or TAME could be substantial based on their use as fuel oxygenates.

(2) *Physical and chemical information.* ETBE has a molecular weight of 102.18, a melting point of -97 °C (Ref. 26), a boiling point of 72 to 73 °C (Ref. 26), a log octanol/water partition coefficient of 1.58 (Ref. 31), a water solubility of 12,000 mg/L at 20 °C (Ref. 32), a vapor pressure of 130 mm Hg at 25 °C (Ref. 32), and a Henry's Law constant of 1.45×10^{-3} atm-m^3/mole at 25 °C (Ref. 34).

TAME has a molecular weight of 102.18, a boiling point of 85 to 86 °C (Ref. 25), a log octanol/water partition coefficient of 1.58 (Ref. 31), a water solubility of 11,500 mg/L at 20 °C (Ref. 32), a vapor pressure of 75 mm Hg at 25 °C (Ref. 32), and a Henry's Law Constant of 9.15×10^{-1} atm-m^3/mole at 25 °C (Ref. 10).

(3) *Chemical fate information.* The estimated atmospheric half-life of ETBE is 1.9 /days based on a hydroxyl radical concentration of 5×10^5 OH/cm^3 and a rate constant of 8.5×10^{-12} atm-m^3/molecule-sec developed by Japar et al. (Ref. 29). The estimated atmospheric half-life of TAME is 2.3 days based on a hydroxyl radical concentration of 5×10^5 OH/cm^3 and a rate constant of 7.91×10^{-12} atm-m^3/molecule-sec estimated by Atkinson (Ref. 27).

The ITC is not recommending chemical fate testing, because it is not a high priority data need at this time.

(4) *Health effects information.* The ITC is recommending health effects testing to meet EPA's data needs.

(5) *Ecological effects information.* The ITC is not recommending ecological effects testing, because it is not a high priority data need at this time.

3. *Removal of chemicals from the Priority Testing List—* a.*Methyl methacrylate and diethyl phthalate.* In its 32nd Report, the ITC designated methyl methacrylate (CAS No. 80–62–6) and diethyl phthalate (CAS No. 84–66–2) for dermal absorption testing to meet the data needs of the Occupational Safety and Health Administration (OSHA) (58 FR 38490, July 16, 1993). These chemicals were added to the *Priority Testing List* as members of a 34-chemical group that had inadequate dermal absorption rate data. OSHA nominated these chemicals to the ITC to obtain data for OSHA to determine whether skin notations should be assigned to these chemicals.

The ITC obtained dermal absorption rate data for methyl methacrylate (Ref. 37) and diethyl phthalate (Ref. 36) that are likely to meet OSHA's data needs. As a result, the ITC is removing methyl methacrylate and diethyl phthalate from the *Priority Testing List* and making the data publicly available by including the references in the EPA docket for this 34th Report and transmitting the data to OSHA and other interested U.S. Government organizations. As a result of finding that these data are likely to meet OSHA's data needs, the ITC requested EPA to remove these chemicals from its TSCA section 8(a) and/or section 8(d) rules before the May 10, 1994 reporting deadline. EPA removed methyl methacrylate and diethyl phthalate from these TSCA section 8 rules on May 2, 1994 (59 FR 22519, May 2, 1994).

b. *N*-Phenyl-1-naphthylamine. In its 27th Report, the ITC recommended *N*-phenyl-1-naphthylamine (CAS No. 90–30–2) for carcinogenicity testing to meet the data needs of OSHA and for chemical fate and ecological effects testing, because of ITC concerns for environmental persistence and aquatic toxicity (56 FR 9534, March 6, 1991).

OSHA was concerned about potential occupational exposures to *N*-phenyl-1-naphthylamine in hydraulic fluids and other mixtures, and the potential carcinogenicity of this *N*-substituted aromatic amine. As noted in ITC's 27th Report, OSHA's exposure concerns were based on 1981–1983 National Occupational Exposure Survey estimates that 96,478 workers were potentially exposed to *N*-phenyl-1-naphthylamine almost exclusively through trade name products. After

reviewing the TSCA section 8(a) production and exposure data, ITC Members met with the U.S. manufacturer of *N*-phenyl-1-naphthylamine. At the meeting and during subsequent discussions, the ITC Members were provided with estimates that 800 to 900 workers were exposed to technical grade *N*-phenyl-1-naphthylamine during manufacturing and processing, and specifications showing that concentrations of *N*-phenyl-1-naphthylamine in formulated lubricants were generally less than four percent (Ref. 39).

ITC Members also reviewed the TSCA section 8(d) health and safety studies and other toxicity data on *N*-phenyl-1-naphthylamine that were obtained after the 27th Report was published. Most of these studies were conducted on formulated products that did not specify the amount of technical grade *N*-phenyl-1-naphthylamine in the product. The aquatic toxicity studies indicated that formulated products containing *N*-phenyl-1-naphthylamine were several orders of magnitude less toxic than pure *N*-phenyl-1-naphthylamine, which, as reported in ITC's 27th Report, was highly toxic to aquatic organisms and teratogenic to frogs (56 FR 9534, March 6, 1991). The biodegradation studies on formulated products containing *N*-phenyl-1-naphthylamine confirmed its potential environmental persistence. The health effects studies on formulated products containing *N*-phenyl-1-naphthylamine did not suggest concerns for carcinogenicity. The results from testing a structurally-related chemical, *N*-phenyl-2-naphthylamine (CAS No. 135–88–6) by the National Toxicology Program (NTP) showed it to be noncarcinogenic in rats and mice (Ref. 40). Based on the available health effects data and structure-activity considerations, there is no reason to believe that *N*-phenyl-1-naphthylamine would have a greater carcinogenic potential than *N*- phenyl-2-naphthylamine.

The ITC is removing *N*-phenyl-1-naphthylamine from the *Priority Testing List* because the available data did not increase concern for carcinogenicity, and the changing priorities of the ITC do not warrant designating the chemical for testing at this time. This decision is consistent with the April 1993 decision by the German Advisory Committee on Existing Chemicals of Environmental Relevance (BUA) to not conduct priority carcinogenicity investigations of *N*-phenyl-1-naphthylamine (Ref. 38).

The ITC has completed its review of TSCA section 8(d) information for *N*-phenyl-1-naphthylamine, and requests that EPA remove it from the TSCA section 8(d) rule.

c. *Acetophenone, phenol, N,N*-dimethylaniline, ethyl acetate and 2,6-dimethylphenol. In its 27th Report, the ITC designated acetophenone, phenol, N,*N*-dimethylaniline, ethyl acetate and 2,6-dimethylphenol to meet EPA's data needs (56 FR 9534, March 6, 1991). The ITC is removing these chemicals from the *Priority Testing List* because EPA proposed a test rule on November 22, 1993 to implement the testing (58 FR 61654, November 22, 1993).

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IV. The TSCA Section 4(e) Priority Testing List, as Revised (May 1994)

THE TSCA SECTION 4(e) Priority Testing List (May 1994)

Report	Date	Chemical/Group	Action
23	November 1988	Butyraldehyde	Recommended
23	November 1988	Tetrakis(2-chloroethyl)ethylene diphosphate Tris(1,3-dichloro-2-propyl) phosphate. Tris(1-chloro-2-propyl) phosphate. Tris(2-chloro-1-propyl) phosphate. Tris(2-chloroethyl)-phosphate.	Recommended with intent-to-designate
26	May 1990	Isocyanates	Recommended with intent-to-designate
27	November 1990	Aldehydes	Recommended with intent-to-designate
27	November 1990	Sulfones	Recommended
27	November 1990	Substantially produced chemicals in need of subchronic toxicity testing.	Recommended
28	May 1991	Acetone	Designated
28	May 1991	Thiophenol	Designated
28	May 1991	*m*-Dinitrobenzene	Recommended
28	May 1991	Cyanoacrylates	Recommended
29	November 1991	Alkyl-, bromo-, chloro-, hydroxymethyl diaryl ethers	Recommended
30	May 1992	Siloxanes	Recommended
30	May 1992	Chloroalkyl phosphates	Recommended
31	January 1993	OSHA chemicals with no dermal toxicity data	Designated
31	January 1993	Propylene glycol ethers and esters (revised)	Recommended
31	January 1993	Methyl ethylene glycol ethers and esters (revised)	Recommended
32	May 1993	OSHA chemicals with insufficient dermal absorption data	Designated
34	May 1994	White phosphorus	Designated
34	May 1994	Ethyl *tert*-butyl ether	Recommended
34	May 1994	Tert-amyl methyl ether	Recommended

The following table list the members of the TSCA Interagency Testing Committee.

Statutory Organizations and Their Representatives

Council on Environmental Quality
Elisabeth Blaug, Member

Department of Commerce
Edward White, Member
Willie E. May, Alternate

Environmental Protection Agency
David R. Williams, Member
Lois Dicker, Alternate

National Cancer Institute
Thomas P. Cameron, Member
Richard Adamson, Alternate

National Institute of Environmental Health Sciences
Errol Zeiger, Member

National Institute for Occupational Safety and Health
Robert W. Mason, Member
Henryka Nagy, Alternate

National Science Foundation
Linda Duguay, Member

Occupational Safety and Health Administration
Christine Whittaker, Member, Chair

Liaison Organizations and Their Representatives

Agency for Toxic Substances and Disease Registry
William Cibulas, Member

Consumer Product Safety Commission
Val Schaeffer, Member
Lakshmi C. Mishra, Alternate

Department of Agriculture
Donald Derr, Member
Clifford Rice, Alternate

Department of Defense
David A. Macys, Member
James N. McDougal, Alternate

Department of the Interior
Barnett A. Rattner, Member

Food and Drug Administration
Edwin J. Matthews, Member
Raju Kammula, Alternate

National Library of Medicine
Vera Hudson, Member

National Toxicology Program
Victor A. Fung, Member

Counsel
Mary Ellen Levine, Office of General Counsel, EPA

Technical Support Contractor
Syracuse Research Corporation

Committee Staff
John D. Walker, Executive Director
Norma S.L. Williams, Executive Assistant, TSCA Interagency Testing Committee U.S. EPA/OPPT (MC/7401) 401 M St., SW., Washington, DC 20460, (202) 260–1825, Fax (202) 260–1764

[FR Doc. 94–16983 Filed 7–12–94; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 11, 1994.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561.

Note: The Commission requested expedited review of this item by July 11, 1994, under the provisions of 5 CFR 1320.18.

OMB Number: None.

Title: Voluntary Customer Survey for Private Land Mobile Radio Users.

Action: New collection.

Respondents: Individuals or households, state or local governments, federal agencies or employers, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: One time survey.

Estimated Annual Burden: 30 responses; 2 hours average burden per response; 60 hours total annual burden.

Needs and Uses: The FCC will conduct a voluntary customer survey to improve customer service to Private Land Mobile Radio applicants and licensees. The FCC will conduct focus groups as well as administering written questionnaires. Focus groups will provide the Commission with preliminary data which will be used to develop questions for the written questionnaire. Licensees, frequency coordinators, law firms, vendors, and license groups from the Metropolitan area will be invited to participate in the focus groups. Three two-hour focus groups will be conducted whereby participants will be asked nine open-ended questions. Participants will respond verbally. Participants will not be given these questions in advance. Out-of-pocket expenses that result from focus group participation will not be reimbursed. During the focus groups, data will be gathered on (1) problems, (2) suggestions to improve services, (3) services customers would like, and (4) services customers do not want. This data will be used to develop customer service standards.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Language for Customer Segment

Hello, my name is _____ and I am calling from the FCC.

The Federal Communications Commission is conducting a survey of their customers to determine the kind and quality of services they want and their level of satisfaction with existing services. You've been identified as having recently been through the FCC's licensure application process. Is this correct? (If yes, continue, if no, indicate we are only looking for people who have been through the licensure process and thank them for their time.)

As a customer of the Private Radio Bureau within the FCC, we would like to share your comments and ideas at a focus group. We are inviting various types of customers, like yourself, that have recently gone through the licensure process at FCC. We've hired the consulting firm of Booz, Allen & Hamilton to conduct these focus groups. We hope that you will come and comment on the experiences you have had while obtaining a license from the FCC and to describe the kind of quality of services you need from the Private Radio Bureau. We will use the results of the focus groups to set customer service standards and to develop a customer service plan.

We will be holding the focus groups at the Booz, Allen & Hamilton offices in Bethesda, MD on the following dates _____. During the focus groups, you will be asked a series of questions relating to the licensure application process at the FCC, your particular experiences with the FCC and what types of improvements you would recommend. We expect the focus groups to last approximately two hours. Will you be able to attend? Which date is best for you? We will send you a confirmation letter that includes directions to the Booz, Allen & Hamilton offices. Thank you for your time. We look forward to hearing your suggestions.

June _____, 1994.

Dear _____

Thank you for agreeing to participate in the FCC Customer Service Focus Group to be held on July _____, 1994. As we mentioned during our phone call, FCC is conducting a survey of their customers to determine the kind and quality of services they need and their level of satisfaction with existing services. We have hired the consulting firm of Booz, Allen & Hamilton to conduct the focus groups. The focus group will begin at _____ at the Booz, Allen & Hamilton offices located at 4330 East-West Highway, Bethesda, Maryland. We have enclosed directions for your convenience.

Please go to the North tower of East-West Towers and report to the receptionist located on the 10th floor. We look forward to hearing your suggestions.

Sincerely,

Focus Groups Questions for Five PRB Customer Groups

(Licensees, Frequency Coordinators, Law Firms, Vendors, and Licensee Representatives)

Introduction

Why FCC is surveying customers:
—National Performance Review
—Executive Order #12862
—Align services with customer needs

What this surveying entails:
—Talking with customers directly to assess their customer service needs
—Obtaining customer evaluation of current FCC services provided
—Developing customer service standards to ensure appropriate level of service to customers

Question 1: What services have you required from the FCC?

Question 2: During what points of the license application process did you interact directly with the FCC?

Question 3: Which office at the FCC did you interact with?

Question 4: What positive experiences have you had in your interactions with the FCC?

Question 5: Have there been any issues or significant problems with the services provided to you by the FCC? If so, with what services?

Question 6: How would you suggest the FCC improve their services?

Question 7: What kinds of services should the FCC provide for you?

Question 8: Do you currently have any need of services not currently provided by the FCC?

Question 9: Does the FCC currently provide a service that is not particularly useful to you?

Wrap-up of discussion and thank-you for participating.

[FR Doc. 94–17108 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

[PR Docket No. 92–288; DA 94–683]

Private Land Mobile Radio Services; Iowa Public Safety Plan Amendment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Deputy Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division released this Order amending the Public Safety Radio Plan for Iowa (Region 15). As a result of accepting the amendment for the Plan for Region 15, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: July 5, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: June 20, 1994.
Released: July 5, 1994.

By the Deputy Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division:

1. The Private Radio Bureau and the Office of Engineering and Technology, acting under delegated authority, accepted the Iowa (Region 15) Public Safety Plan (Plan) on February 10, 1993, 8 FCC Rcd 985 (1993).

2. By letter dated February 3, 1994, the Region proposed to amend its Plan. The proposed amendment would reserve all unassigned channels for the State of Iowa. The Commission placed the letter on Public Notice for comments due on May 16, 1994, 59 FR 17784 (April 14, 1994). One comment was received from the Wisconsin Department of Transportation requesting that coordination be made with Wisconsin when any of the frequencies in question will be used within 75 miles of the Wisconsin border of if there is a possibility that a 40 dbu contour will extend into Wisconsin. The State of Iowa has agreed to this coordination.

3. We have reviewed the proposed amendment to the Region 15 Plan and conclude it furthers the interests of the eligible entities within the Region.

4. Accordingly, it is ordered, That the Public Safety Radio Plan for Iowa (Region 15) is amended, as set forth in the Region's letter of February 3, 1994. This Amendment is effective immediately.

Federal Communications Commission.

Edward R. Jacobs,

Deputy Chief, Land Mobile and Microwave Division.

[FR Doc. 94–16883 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2021]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

July 7, 1994.

Petitions for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed July 28, 1994. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992. Compatibility Between Cable Systems and Consumer Electronics Equipment. (ET Docket No. 93–7) Number of Petitions Filed: 10

Subject: Amendment of Sections 73.202(b), Table of Allotments, FM Broadcast Stations. (Wickenburg, Arizona) (MM Docket No. 93–71, RM No. 8134) Number of Petitions Filed: 1.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 94–16884 Filed 7–12–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Community Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 6, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Bankshares, Inc., Cornelia, Georgia, to acquire 100 percent of the voting shares of The Bank of Troup County, LaGrange, Georgia.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First National Bancorp, Inc., Joliet, Illinois, to acquire 100 percent of the voting shares of Community Bank of Plano, Plano, Illinois, and thereby indirectly acquire Plano Bancshares, Inc., Plano, Illinois.

2. Panhandle Aviation, Inc., Clarinda, Iowa, to acquire 100 percent of the voting shares of Bank Altoona, Altoona, Iowa, a *de novo* bank.

3. Peotone Bancorp, Inc., Peotone, Illinois, to acquire by merger through its subsidiary Southwest Bancorp, Inc., Worth, Illinois, 100 percent of the voting shares of Minooka Bancorp, Inc., Minooka, Illinois, and thereby indirectly acquire 100 percent of the voting shares of Tri-County Bank of Minooka, Minooka, Illinois; 100 percent of Westbanco Bancorp, Inc., Westville, Illinois, and thereby indirectly acquire at least 82.02 percent of First National Bank of Westville, Westville, Illinois; and an additional 4.7 percent, for a total of 19.61 percent, of the voting shares of Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

4. Philipps Investment Company Limited Partnership, Spring Hill, Florida, to become a bank holding company by acquiring 53 percent of the voting shares of Gratiot Bancshares, Inc., Gratiot, Wisconsin, and thereby indirectly acquire Gratiot State Bank, Gratiot, Wisconsin.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community Bancshares, Inc., Irvington, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares of Community Trust Bank, Irvington, Illinois.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Southeast Bancshares, Inc., Chanute, Kansas, to acquire 82.5 percent of the voting shares of Fall River State Bank, Fall River, Kansas. Comments regarding this application must be received no later than July 22, 1994.

E. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Community Bancorporation, Orem, Utah, to become a bank holding company by acquiring 100 percent of the voting shares of Western Community Bank, Orem, Utah.

2. Salinas Valley Bancorp, Salinas, California, to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Salinas, Salinas, California.

Board of Governors of the Federal Reserve System, July 7, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-16895 Filed 7-12-94; 8:45 am]

BILLING CODE 6210-01-F

William R. Jones and Elizabeth J. Jones, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 2, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. William R. Jones and Elizabeth J. Jones, Fortville, Indiana; to retain 18.02 percent of the voting shares of North Salem State Bancorporation, North Salem, Indiana, and thereby indirectly acquire The North Salem State Bank, North Salem, Indiana.

2. Robert G. Porter, North Salem, Indiana; to retain 10.45 percent of the voting shares of North Salem State Bancorporation, North Salem, Indiana, and thereby indirectly acquire The North Salem State Bank, North Salem, Indiana.

Board of Governors of the Federal Reserve System, July 7, 1994

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-16957 Filed 7-12-94; 8:45 am]

BILLING CODE 6210-01-F

PBT Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 5, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. PBT Bancshares, Inc., McPherson, Kansas; to acquire 100 percent of the voting shares of Nickerson Bankshares, Inc., Nickerson, Kansas, and thereby indirectly acquire Nickerson State Bank, Nickerson, Kansas.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Myers Bancshares, Inc., Dallas, Texas; to acquire 100 percent of the voting shares of Woodhaven National Bank, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, July 7, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-16958 Filed 7-12-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 921 0023]

Kiwi Brands Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Pennsylvania-based subsidiary of Sara Lee Corporation and manufacturer of shoe care products to divest its Esquire and Griffin brands and related assets to Hickory Industries within one month

after the order becomes final. If the sale to Hickory Industries is not accomplished within one month, the proposed agreement would require Kiwi and Sara Lee to divest the assets to another Commission approved acquirer within twelve months or else the Commission would be entitled to appoint a trustee to sell the assets to a Commission approved acquirer in a manner approved by the Commission.

DATES: Comments must be received on or before August 12, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, FTC/S–2115, Washington, DC 20580. (202) 326–2851.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to divest, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Agreement Containing Consent Order

The Federal Trade Commission ("the Commission"), having initiated an investigation of the acquisition by Kiwi Brands Inc. ("Kiwi"), a wholly-owned subsidiary of Sara Lee Corporation ("Sara Lee"), of certain assets of Knomark, Inc., at the time of the acquisition a wholly-owned subsidiary of Papercraft Corporation, and of certain assets of Reckitt and Colman plc, and it now appearing that Kiwi and Sara Lee, hereinafter sometimes referred to as proposed Respondents, are willing to enter into an agreement containing an order to divest certain assets and providing for other relief:

It is hereby agreed by and between proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Kiwi is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 447 Old Swede Road, Douglassville, Pennsylvania 19518–1239.

2. Proposed Respondent Sara Lee is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 3 First National Plaza, Chicago, Illinois 60602–4260.

3. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposes Respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed Respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed Respondents' addresses as stated in this agreement shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed Respondents have read the draft of complaint and order contemplated hereby. Proposed Respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it became final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. "Kiwi" means Kiwi Brands, Inc., its predecessors, subsidiaries, divisions, groups and affiliates controlled by Kiwi, and their respective directors, officers, employees, agents, representatives, and their respective successors and assigns.

B. "Sara Lee" means Sara Lee Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Sara Lee, and their respective directors, officers, employees, agents, representatives, and their respective successors and assigns.

C. "Respondents" means Kiwi Brands, Inc. and Sara Lee Corporation.

D. "Chemical shoe care products" means all chemical products used in the maintenance, cleaning, and protection of shoes, including, but not limited to, aerosol, liquid, wax, and cream products.

E. "Sales through the mass market" means all sales through grocery stores, drug stores, and mass merchandisers.

F. "Knomark acquisition" means the 1987 acquisition in which Sara Lee acquired the "Esquire" brand of chemical shoe care products, among other assets, from Knomark, Inc., a wholly-owned subsidiary of Papercraft Corporation.

G. "Reckitt and Colman acquisition" means the 1991 acquisition in which

Sara Lee acquired the "Griffin" brand of chemical shoe care products, among other assets, from Reckitt and Colman plc.

H. "Commission" means the Federal Trade Commission.

I. "Griffin and Esquire assets" means all assets, tangible or intangible, acquired by Sara Lee in the Knomark acquisition and owned by Sara Lee as of January 1, 1994, relating to the production or sale of chemical shoe care products in North and South America, and all assets, tangible or intangible, acquired by Sara Lee in the Reckitt & Colman acquisition and owned by Sara Lee as of January 1, 1994, relating to the production or sale of chemical shoe care products in North and South America under the "Griffin" brand name; provided, however, that "Griffin and Esquire assets" excludes equipment and formulas used in the production of chemical shoe care products under the "Kiwi" brand. The Griffin and Esquire assets include, but are not limited to, registered and unregistered trademarks; formulas and other trade secrets; raw materials, finished goods, packaging materials, and other inventories (excluding inventories of raw materials and packaging materials for any products to be manufactured by Kiwi for Hickory Industries, Inc., after the divestiture); customer lists; and business and financial records, relating to the "Griffin" or "Esquire" brands.

II

It is further ordered that Respondents shall divest, absolutely and in good faith, the Griffin and Esquire assets.

The Griffin and Esquire assets shall be divested either: (1) within one (1) month of the date this order becomes final, to Hickory Industries, Inc. ("Hickory"), pursuant to the November 30, 1993, Asset Purchase Agreement between Kiwi and Hickory, as amended by Amendment One to November 30, 1993, Asset Purchase Agreement, dated March 8, 1994, attached hereto as a Confidential Appendix; or (2) within twelve (12) months of the date the order becomes final, to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

The purpose of the divestiture is to assure the continuing use of the Griffin and Esquire assets in an ongoing, independent, viable operation engaged in the sale of chemical shoe care products in the United States, and to remedy the lessening of competition resulting from the Knomark acquisition and the Reckitt and Colman acquisition as alleged in the Commission's complaint. Provided, however, that if Respondents divest pursuant to Paragraph II (1) of this order, in no event shall Respondents' enforcement of any security interest contained in the Asset Purchase Agreement referred to in Paragraph II (1) of this order be construed to not require the Commission's prior approval, pursuant to Paragraph V of this order, if such approval would otherwise be required.

III

It is further ordered that:

A. If Respondents have not divested, absolutely and in good faith and with the Commission's prior approval, the Griffin and Esquire assets within twelve months of the date this order becomes final, the Commission may appoint a trustee to divest the Griffin and Esquire assets. In the event that the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it for any failure by Respondents to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III A. of this order, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Griffin and Esquire assets.

3. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III B. 8. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court.

4. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Griffin and Esquire assets, or to any other relevant information, as the trustee may reasonably request. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

5. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Respondents from among those approved by the Commission.

6. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Respondents, and the trustee's power shall be terminated. The trustee's

compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Griffin and Esquire assets.

7. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

8. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Respondents shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that pending divestiture of the Griffin and Esquire assets, Respondents shall maintain the viability and marketability of the Griffin and Esquire assets and shall not cause or permit the destruction, removal, wasting, deterioration or impairment of the Griffin and Esquire assets.

V

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Respondents shall not, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, presently engaged in or within the two years preceding such acquisition engaged in the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States; provided, however, that an acquisition will be exempt from the requirements of this paragraph if it is solely for the purpose of investment and Respondents will hold no more than one percent of the shares of any class of security traded on a national securities exchange or authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission; or

B. Acquire any assets used for, or previously used for (and still suitable for use for) the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States (including, but not limited to, brand or trade names), except in the ordinary course of business, from any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States; provided, however, that an acquisition of assets will be exempt from the requirements of this paragraph if the purchase price of the assets-to-be-acquired is less than $100,000, and the purchase price of all assets used for, or previously used for (and still suitable for use for) the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States that Respondents have acquired from the same person (as that term is defined in the premerger notification rules, 16 CFR 801.1(a)(1)) in the twelve-month period preceding the proposed acquisition, when aggregated with the purchase price of the to-be-acquired assets, does not exceed $100,000.

VI

It is further ordered that, for a period of ten (10) years from the date this order becomes final, unless Respondents are required to seek prior approval from the Commission pursuant to Paragraph V, Respondents shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture, distribution, or sale of chemical shoe care products in the United States; provided, however, that an acquisition will be exempt from the requirements of this paragraph if it is solely for the purpose of investment and Respondents will hold no more than one percent of the shares of any class of security traded on a national securities exchange or authorized to be quoted in an interdealer quotation system of a national securities association registered with the United States Securities and Exchange Commission; or

B. Acquire any assets used or previously used (and still suitable for use) in the manufacture, distribution, or sale of chemical shoe care products, except in the ordinary course of business, from any concern, corporate or non-corporate, presently engaged in, or within the two years preceding such acquisition engaged in the manufacture, distribution, or sale of chemical shoe care products in the United States.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"). Respondents shall provide to the Commission at least thirty days prior to acquiring any such interest (hereinafter referred to as the "first waiting period"), both the Notification and supplemental information either in Respondents' possession or reasonably available to Respondents. Such supplemental information shall include a copy of the proposed acquisition agreement; the names of the principal representatives of each Respondent and of the firm Respondents desire to acquire who negotiated the acquisition agreement; and any management or strategic plans discussing the proposed acquisition. If, within the first waiting period, representatives of the Commission make a written request for additional information, Respondents shall not consummate the acquisition until twenty days after submitting such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a.

VII

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every

sixty (60) days thereafter until Respondents have fully complied with the provisions of Paragraph II or III of this order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with Paragraphs II and III of this order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture. Provided, however, that if, prior to the date the first report required by this paragraph is due, Respondents have consummated the acquisition described in Paragraph II (1) of this order, Respondents shall, in lieu of the report or reports and documentary attachments required by this Paragraph, submit to the Commission, within thirty (30) days of consummation of the acquisition, a verified statement that Respondents have complied with Paragraph II of this order, including the date of consummation.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with Paragraphs V and VI of this order.

VIII

It is further orderded that each of the Respondents shall notify the Commission at least thirty days prior to any proposed change in such Respondent, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in such Respondent that may affect compliance obligations arising out of this order.

IX

It is further ordered that, for the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request, each of the Respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such Respondent relating to any matters contained in this order; and

B. Upon five (5) days notice to such Respondent and without restraint or interference from it, to interview officers, directors, or employees of such Respondent, who may have counsel present, regarding such matters.

Analysis to Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission ("the Commission") has accepted, for public comment, from Kiwi Brands Inc. ("Kiwi") and Sara Lee Corporation ("Sara Lee") an agreement containing consent order. This agreement has been placed on the public record for thirty days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's order.

The Commission's investigation of this matter concerns Sara Lee's and Kiwi's 1987 acquisition of the "Esquire" brand of chemical shoe care products and related assets from Knomark, Inc., then a subsidiary of Papercraft Corporation, and Sara Lee's and Kiwi's 1991 acquisition of the "Griffin" brand of chemical shoe care products and related assets from Reckitt & Colman.

The agreement containing consent order would, if finally accepted by the Commission, settle charges alleged in the Commission's complaint that the acquisitions substantially lessened competition in the sale in the United States of chemical shoe care products used in the maintenance, cleaning, and protection of shoes, through grocery stores, drug stores, and mass merchandisers, sometimes referred to as the mass market channel, and that Sara Lee undertook the acquisitions with the intention and effect of restraining, lessening, or eliminating competition, or acquiring or maintaining market power in the same market. The Commission's complaint further alleges that the acquisitions had and will have anticompetitive effects and that, in making the acquisitions, Sara Lee and Kiwi violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

The order accepted for public comment contains provisions that would require that Sara Lee and Kiwi divest the "Esquire" and "Griffin" brand names and related assets to Hickory Industries, Inc., within one month of the date the order becomes final. If the transaction with Hickory Industries, Inc., is not consummated within one month of the date the order becomes final, then the order would require Sara Lee and Kiwi to divest the Esquire and Griffin assets to an acquirer that receives the prior approval of the Commission and in a manner approved by the Commission within twelve months of the date the order becomes final. The purpose of the divestiture is to assure the continuing use of the Esquire and Griffin assets in an ongoing, independent, viable operation engaged in the sale of chemical shoe care products in the United States, and to remedy the lessening of competition resulting from each of the acquisitions.

If Sara Lee and Kiwi do not divest the Esquire and Griffin assets within the time periods described above, the Commission would be entitled to appoint a trustee to effect the divestiture of the Esquire and Griffin assets to an acquirer or acquirers approved by the Commission and in a manner approved by the Commission.

For a period of ten years from the date the order becomes final, the order would also prohibit Kiwi and Sara Lee from acquiring, without prior Commission approval, stock in or assets of an entity engaged in the manufacture of chemical shoe care products in the United States, or the distribution or sale of chemical shoe care products through the mass market in the United States. Acquisitions, for investment purposes only, of less than 1 percent of the outstanding stock of a publicly-traded company would be exempt from the prior approval provision. Acquisitions of certain assets valued at less than $100,000 would also be exempt from the prior approval provision.

For acquisitions of stock in or assets of an entity engaged in the manufacture, distribution, or sale of chemical shoe care products in the United States by Sara Lee or Kiwi for which prior approval would not otherwise be required by the order, the order would require that Sara Lee and Kiwi give notice to the Commission before consummating the acquisition. Acquisitions, for investment purposes only, of less than 1 percent of the outstanding stock of a publicly-traded company would be exempt from the prior notice provision, in addition to

being exempt from the prior approval provision.

The purpose of this analysis is to invite public comment concerning the consent order and any other aspect of the acquisition. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify its terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 94–16950 Filed 7–12–94; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Proposed Ronald Reagan Federal Building-United States Courthouse, City of Santa Ana, California

Correction to the Notice of Availability (NOA) for a Final Environmental Impact Statement (FEIS)

This notice is to correct the General Services Administration notice published in the 59 **Federal Register**, dated June 21, 1994, page 31996. The corrected notice is as follows:

Notice of Availability for a Final Environmental Impact Statement (FEIS)

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, Public Buildings Service, Attn: Ms. Mitra K. Nejad, 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: July 1, 1994.

Aki Nakao,

Acting Regional Administrator (9A).

[FR Doc. 94–16909 Filed 7–12–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC—480]

Announcement of Cooperative Agreement to the Association of State and Territorial Chronic Disease Program Directors

Summary

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a sole source cooperative agreement with the Association of State and Territorial Chronic Disease Program Directors (ASTCDPD) to provide State and national leadership to develop programs for the control and prevention of chronic disease and to prevent the development of behaviors that contribute to the development of chronic disease. Approximately $200,000 is available in FY 1994 to fund this award. It is expected that the award will begin on or about September 30, 1994, and will be for a 12-month budget period within a project period of up to 5 years. This funding estimate may vary and is subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

The purpose of this cooperative agreement is to assist ASTCDPD to periodically determine the status of State and local chronic disease programs and provide appropriate professional expertise to implement informational and programmatic activities to enhance the delivery of comprehensive chronic disease prevention and control services.

The CDC will collaborate in designing survey techniques, analyzing data, and developing informational, educational, and programmatic approaches to enhance national, State, and local comprehensive chronic disease programming; designing profiles of ASTCDPD membership and organizational resources available to assist health care agencies and organizations; developing communications systems; and providing scientific and operational updates in the areas of categorical and comprehensive chronic disease prevention and control.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Physical Activity and Fitness, Heart Disease and Stroke, Nutrition, Diabetes, Cancer, and Tobacco. (For ordering a copy of "Healthy People 2000," see the Section **Where To Obtain Additional Information.**)

Authority: This program is authorized under section 317 (k)(2), [42 U.S.C. 247b(k)(2)] of the Public Health Service Act, as amended.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicant

Assistance will be provided only to ASTCDPD. No other applications are solicited. The Program Announcement and the application kit have been sent to ASTCDPD.

Eligibility is limited to ASTCDPD because of its unique relationship with both the Association of State and Territorial Health Officials (ASTHO) and State chronic disease prevention and health promotion programs. ASTCDPD is an affiliate of the ASTHO and is the officially designated organization to advise and represent the interest of State health officials in comprehensive chronic disease prevention and control activities. ASTCDPD is the only national nonprofit chronic disease organization of which program directors and staff representing all States and territories are members. ASTCDPD is organized specifically, to serve as a convener of activities relative to State chronic disease programs.

The mission of ASTCDPD is to provide State and national leadership to develop programs for the control and prevention of chronic disease conditions and to prevent the development of behaviors that contribute to the development of chronic disease conditions. ASTCDPD is uniquely capable of analyzing, advising, and fulfilling liaison responsibilities for comprehensive chronic disease

prevention and control activities among such broad-based specialties as Health Education/Risk Reduction, Diabetes, Physical Activity and Fitness, Heart Disease and Stroke, Cancer, Nutrition, and Tobacco. ASTCDPD has served as a policy development and capacity-building organization in public health matters since 1988 and has as one of its major objectives the sharing of information within and between State health departments.

In collaboration with other national organizations, ASTCDPD accomplishes its mission by disseminating information on chronic disease program needs and services, recommending and advocating improved policies and programs. ASTCDPD also provides consultation and guidance to State programs in the establishment of statewide systems of coordinated, community-based prevention and individual care for persons with chronic or disabling conditions, and for persons with limited access to services. All of these activities are accomplished through cooperation and collaboration with national, State, and local partners in the public and private sectors.

Although other organizations may possess some of these abilities and/or perform some of these roles, no other organization has ASTCDPD's unique characteristics. ASTCDPD is comprised of State chronic disease program directors, who are necessary to effectively carry out the activities entailed in this program.

Executive Order 12372 Review

This program is not subject Executive Order 12372 review.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirement.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Where to Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please refer to Announcement 480 and contact Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508, for business management technical assistance. Programmatic technical assistance may be obtained from Gary C. Hogelin, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Mailstop K–30, Atlanta, GA 30341–3724, telephone (404) 488–5270.

A copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the **Introduction** may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 7, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16960 Filed 7–12–94; 8:45 am]

BILLING CODE 4163–18–P

[CDC–435]

Announcement of Cooperative Agreement to the State of North Carolina Department of Environment, Health, and Natural Resources

SUMMARY: The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a cooperative agreement program for Diabetes Intervention: Reaching and Educating Communities Together (Project DIRECT) with the State of North Carolina Department of Environment, Health, and Natural Resources (DEHNR) to further develop and carryout multi-level, community-based interventions to reduce the burden of diabetes and its complications in an African-American community.

Project DIRECT is a multiyear demonstration project of the Division of Diabetes Translation (DDT), National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), CDC, incorporating the principal translation functions of the division of: (1) Defining the burden of diabetes, (2) developing innovative approaches to the prevention and control of diabetes, (3) implementing these approaches through the State-based diabetes control programs, and (4) coordinating national, State, and local resources for improved diabetes care.

Approximately $650,000 is available in FY 1994 to fund this program. This funding is to support administrative start-up costs, to include staffing and awarding competitive subcontracts with community institutions and organizations conducting specific work related to the execution of the intervention plan. Operational funding for intervention and evaluation is expected to increase in years 02 through 05.

It is expected that the award will begin on or about September 30, 1994, and will be made for a 12-month budget period within a project period of up to 5 years. This funding estimate may vary and is subject to change.

The purpose of Project DIRECT is to: (1) Improve the health-related quality of life of an African-American community by reducing the burden of diabetes and its complications through a multilevel, community-based intervention(s), and (2) develop, carry out, and evaluate strategies that will be incorporated into State-based diabetes control programs nationwide. The research design of the project is to conduct a baseline population survey of a predominantly urban and suburban African-American community, implement targeted interventions for at least 5 years, monitor a longitudinal cohort of persons with diabetes, and conduct a follow-up survey at the end of the intervention phase to detect and document community level changes. There will also be a comparison community that will be surveyed at baseline and at follow-up. This multilevel community intervention will be conducted by a consortium of public and private agencies and organizations with management and leadership provided by the official State health department.

The CDC will assist in the design of interventions and evaluation protocols used in conducting and evaluating the project, provide technical assistance in the design of demonstration protocols, provide programmatic consultation and guidance in support of the project, coordinate with DEHNR in sharing and distributing information, data, and successful strategies and interventions to States and other appropriate organizations, agencies, and institutions. CDC will also provide DIRECT Intervention Plan guidelines and assist in the development of a plan for Diabetes Care, Outreach, and Health Promotion interventions.

The Public Health Service (PHS) is committed to achieving the health

promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Diabetes and Chronic Disabling Conditions, with particular attention to populations at disproportionate risk of developing diabetes, including minorities and the elderly. (For ordering a copy of "Healthy People 2000," see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority: This program is authorized under Section 301(a) and 317(k), 42 U.S.C. 241(a) and 247b, of the Public Health Service Act, as amended.

SMOKE-FREE WORKPLACE: The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

ELIGIBLE APPLICANT: Assistance will be provided only to DEHNR for this project. No other applications are solicited. The Program Announcement and application kit have been sent to DEHNR.

DEHNR and North Carolina are uniquely situated to conduct this project for the following reasons:

A. In 1990, following an open competition, a contract for the pilot phase of Project DIRECT was awarded to a research institution in North Carolina. Developmental activities associated with Project DIRECT have been conducted in Wake County, North Carolina. Considerable community organization and development have occurred to ensure community support and involvement in Project DIRECT. A community advisory board of over 30 local representatives have been actively involved in the project since March 1992. Regular coverage through all media channels that serve this community has occurred and widespread name recognition of the project has been achieved in this community.

B. A survey of over 900 randomly sampled households in Wake County, North Carolina, is complete, and over 250 extensive medical examinations were performed on a subsample of the household respondents. Response rates exceeded 80%, indicating that expanded survey work is feasible in this community. There is no other community in the United States for which this type of data exists. Replication of work completed to date in another community could only be achieved at considerable cost to the government.

C. The data gathered through the household and medical examinations, along with information from a community resource analysis for Wake County, provides the database from which a comprehensive, multilevel community intervention plan has been developed. The intervention strategies match closely with the health care and educational needs of this community and the resources available to support the interventions in Wake County.

D. CDC's traditional constituency is State health departments, and the intervention components of Project DIRECT are intended to serve as model programs for eventual implementation by other official State health departments. This cooperative agreement with DEHNR allows CDC to evaluate the effectiveness of Project DIRECT in a State health department, and to identify the additional liaisons that will be required to ensure the viability of diabetes control programs in State health departments in a reformed health system. DEHNR has expertise, administrative and technical capacity, and public health orientation represented in State health departments nationally.

E. DEHNR has collaborated successfully with universities and research institutions in the State. These are important liaisons for the successful implementation of Project DIRECT. DEHNR presently has established contractual relationships with these academic institutions:

- East Carolina University to develop and teach an introductory course in the etiology and management of diabetes mellitus.
- The Cancer Control Program at Duke University.
- The Department of Nutrition at the University of North Carolina-School of Public Health.
- The Department of Ophthalmology at the University of North Carolina-School of Medicine to implement the eye care objectives for Diabetes 2000.

F. DEHNR has an Office of Minority Health that can provide policy and programmatic technical assistance to Project DIRECT.

G. DEHNR participated as a member of the DIRECT Community Advisory Board during the pilot phase of the project and they are familiar with the philosophy and design of this complex community intervention.

Executive Order 12372 Review

This application is subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. The applicant should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective application and receive any necessary instructions on the State process. A current list of SPOCs is included in the application kit. If the SPOC has any State process recommendations on the application submitted to CDC, they should send them to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application deadline. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

OTHER REQUIREMENTS:

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

WHERE TO OBTAIN ADDITIONAL INFORMATION: If you are interested in obtaining additional information regarding this project, please refer to Announcement 435 and contact Bernice

A. Moore, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mailstop E–16, Atlanta, GA 30305, telephone (404) 842–6802.

A copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the **SUMMARY** may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 7, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16961 Filed 7–12–94; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Drug Abuse Advisory Committee

Date, time, and place. August 1, 2, and 3, 1994, 9 a.m., Holiday Inn, Plaza Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, August 1, 1994, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m; open committee discussion, August 2, 1994, 9 a.m. to 1 p.m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 5 p.m; open public hearing, August 3, 1994, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; Ermona B. McGoodwin or Isaac F. Roubein, Center for Drug Evaluation and Research (HFD–009), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee advises on the scientific and medical evaluation of information gathered by the Department of Health and Human Services and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 25, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On August 1, 1994, the committee will discuss the abuse liability assessment and related issues of the new drug application (NDA) 20–385, nicotine nasal spray, Kabi Pharmacia, Inc., an aid to smoking cessation. On August 2, 1994, the committee will discuss issues related to nicotine and smoking, including the relationship between nicotine dose and addiction in smokers. On August 3, 1994, the committee will discuss the abuse liability assessment of NDA 20–281, Ultram® (tramadol hydrochloride tablets), R. W. Johnson Pharmaceutical Research Institute, for treatment of pain.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: July 7, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–16936 Filed 7–8–94; 12:48 pm]

BILLING CODE 4160–01–F

HEALTH CARE FINANCING ADMINISTRATION

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration.

The Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Extension; *Title of Information Collection:* Current Beneficiary Survey-Rounds 10–18; *Form No.:* HCFA–P–15; *Use:* Rounds 10–18 of the Current Beneficiary Survey will collect cost and utilization data for community and industrial populations. Information collection includes: inpatient hospitalization, emergency care, outpatient clinics, medical equipment cost, and other sources of payment to be collected; *Frequency:* Quarterly; *Respondents:* Businesses, Nonprofit institutions, Individuals or households; *Estimated Number of Responses:* 16,500; *Average Hours Per Response:* 1 hour; *Total Estimated Burden Hours:* 50,738.

2. *Type of Request:* Revision; *Title of Information Collection:* Medicare Independent Renal Dialysis Facility Cost Report; *Form No.:* HCFA–265–94; *Use:* The Medicare Independent Renal Dialysis Facility cost report provides for determination and allocation of costs to the components of the facility in order to establish a proper basis for Medicare payment. This version has been revised to reflect questions in transplant statistics and home program dialysis; *Frequency:* Annually; *Respondents:* Businesses or other for profit, small businesses or organizations; *Estimated Number of Responses:* 380,560; *Average Hours Per Response:* 196; *Total Estimated Burden Hours:* 329,672.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 3001, Washington, DC 20503.

Dated: July 5, 1994.

Kathleen Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 94–16919 Filed 7–12–94; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–94–3754; FR–3699–N–02]

Section 8 Housing Assistance Payments Program—Fair Market Rent (FMR) Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Notice to extend FMR public comment period.

SUMMARY: This Notice advises the public that HUD is extending the public comment period for the FMRs until October 14, 1994 in order to give PHAs in FMR areas with small rental housing inventories the opportunity to use the new survey guide HUD has recently developed.

HUD is also announcing in this Notice that there will be two final FMR publications again this year. The first publication will make the proposed FMRs for all areas effective on October 1, 1994. The second publication, to be issued late in the year, will announce revised final FMRs for the areas for which HUD has made a determination that the rental housing surveys submitted provided a sufficient basis for such revision.

DATES: Comments are due October 14, 1994.

ADDRESSES: Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. To expedite processing, each commenter is requested to simultaneously submit a copy of its comments to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–0577 (TDD: (202) 708–0770). (Telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs periodically, but not less frequently than annually, to be effective on October 1 of each year. On June 23, 1994, HUD published the proposed Fiscal Year (FY) 1995 FMRs with a 60-day public comment period to August 22, 1994.

With this Notice, HUD is extending the public comment period until October 14, 1994 to ensure that PHAs and other interested parties who wish to use the new rental housing survey guide will have sufficient time to do so.

The guide is intended for PHAs administering Section 8 programs in small FMR areas, for whom the formal Random Digit Dialing (RDD) methodology would not be cost effective. It enables a PHA to carry out a rental housing survey by itself, for a fraction of the cost of a formal RDD. The guide provides instruction on how to choose the best, most cost-effective means of surveying the rental housing stock in the FMR area. It describes survey options and provides specific advice and guidelines for conducting valid surveys and submitting comments in accordance with statistical requirements. The simplified methods presented in this guide offer the least costly means of obtaining valid FMR estimates for public housing agencies that manage under 500 Section 8 units in FMR areas with under 5,000 total rental units. Even the smallest PHAs might wish to review this guide for its suggestions on how to develop representative samples and conduct statistically acceptable surveys.

HUD is not mandating use of the new guide for PHAs in small FMR areas or use of the RDD method for larger areas. However, it is strongly urged that commenters consider these approaches because they are much more likely to result in an end product that is acceptable to HUD.

Copies of the new survey guide are available from HUD USER, at (800) 245–2691. Questions concerning the guide

may be directed to HUD field office economists.

Dated: July 8, 1994.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 94–16977 Filed 7–12–94; 8:45 am]

BILLING CODE 4210–32–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3737; FR–3659–C–02]

Notice of Correction for the Public and Indian Housing Drug Elimination Program (PHDEP)—FY 1994 Notice of Funding Availability

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

ACTION: Notice of Correction to the Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1994.

SUMMARY: On April 1, 1994, HUD published a NOFA that announced FY 1994 funding of $231,978,631 under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in eliminating drug-related crime. The purpose of this notice is to make corrections to the section specifying eligible applicants for one of the activities under the NOFA and to the number of points in one of the selection criteria.

DATES: The original application deadline date is not changed. Applications must be received at the local HUD Field Office on or before *Friday, July 29, 1994, at 3:30 PM, local time.* This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems. A FAX is not acceptable.

FOR FURTHER INFORMATION ON THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM, PUBLIC HOUSING, CONTACT: The local HUD Category A or B Field Office, Public Housing Division, or Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, Room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

FOR FURTHER INFORMATION ON THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM FOR NATIVE AMERICAN PROGRAMS CONTACT: The local HUD Category A or B Field Office, Administrator, Office of Native Americans, or Dominic Nessi, Director, Office of Native American Programs, Public and Indian Housing, Department of Housing and Urban Development, Room 4140, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1015. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) announcing HUD's FY 1994 funding of $231,978,631 under the Public and Indian Housing Drug Elimination Program (PHDEP) was published on April 1, 1994 (59 FR 15574). Paragraph I.(c)(1)(ii) of the NOFA, under the heading *Employment of Housing Authority Police,* which listed housing authorities eligible to apply because they have their own housing authority (HA) police department, omitted from the list the HA of the City of Waterbury, Waterbury, CT, and the Buffalo HA, Buffalo, NY, and incorrectly included the Newark Housing Authority, Newark, NJ. In addition, the listing for the New York City Department of Housing Preservation and Development, NYC, NY, should have read: New York City Public Housing Authority, NYC, NY. This notice corrects the April 1, 1994 PHDEP NOFA by republishing the entire list of eligible applicants under paragraph I.(c)(1)(ii) to add the two omitted HAs to the list, to delete the one incorrectly listed, and to amend the listing for the New York City Public Housing Authority.

This notice also corrects the number of points that will be awarded under the first selection criterion of the NOFA. Specifically, five points are added to the subcriteria at sections I.(d)(1) (v) and (vi), raising each to 15 points, and raising the total number of points to 130.

Accordingly, the following technical correction is made in FR Doc. 94–7781 to the NOFA titled, "NOFA for the Public and Indian Housing Drug Elimination Program (PHDEP)—FY–1994", published on April 1, 1994 (59 FR 15574):

1. On page 15577, the list of eligible applicants in paragraph I.(c)(1)(ii), which appears in the first column, is revised to read as follows:

Baltimore HA and Community Development, Baltimore, MD
Boston HA, Boston, MA
Buffalo HA, Buffalo, NY
Chicago HA, Chicago, IL
Cuyahoga Metropolitan HA, Cleveland, OH
HA of the City of Los Angeles, LA, CA
HA of the City of Waterbury, Waterbury, CT
HA of the City of Oakland, Oakland, CA
HA of the City of Pittsburgh, Pittsburgh, PA
New York City Public HA, NYC, NY
Philadelphia HA, Philadelphia, PA

2. On page 15582, the first full paragraph in the first column, which is a part of paragraph I.(d), is revised to read as follows:

The number of points that an application receives will depend on the extent to which the application is responsive to the information requested in the selection criteria. An application *must* receive a score of at least 80 points out of the maximum of 130 points that may be awarded under this competition to be eligible for funding.

3. On page 15583, paragraph I.(1)(d)(1)(v), which appears in the first column, is revised to read as follows:

(v) In awarding points, HUD will evaluate and assign points between zero (0) and fifteen (15) according to the per capita incidence of robbery and homicide in their community relative to their per capita incidence on a nationwide basis. Data on robbery and homicide incidence were chosen because of the demonstrated relationship of a substantial portion of these crimes with drug abuse. The community data will be taken from the Uniform Crime Reports (UCRs) of the U. S. Department of Justice (FBI crime data) and will be at the city level, when available, or at the county level. The crime incidence data and the point values will be computed by HUD. (Maximum Points: 15)

4. On page 15583, paragraph I.(1)(d)(1)(vi), which appears in the first column, is revised to read as follows:

(vi) In awarding points, HUD will evaluate and assign points between zero (0) and fifteen (15) according to the per capita incidence of drug arrests. In instances where the Department of Justice records do not contain community submission data, points will be assigned based on state metropolitan and nonmetropolitan averages relevant to such areas. (Maximum Points: 15)

Authority: Sec. 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et. seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 7, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–16917 Filed 7–12–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–03–4120–03]

AGENCY: Bureau of Land Management, Interior.

ACTION: Invitation for Coal Exploration License, WYW133297.

SUMMARY: Cordero Mining Co., a wholly owned subsidiary of Kennecott Coal Co., hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning federally owned coal underlying the following described land in Campbell County, Wyoming:

T. 46 N., R. 71 W., 6th P.M., Wyoming
Sec. 1: Lot 18;
Sec. 4: Lots 11 and 17;
Sec. 5: Lots 11 and 16;
Sec. 7: Lot 7;
Sec. 8: Lots 5 and 9;
Sec. 12: Lots 9 and 10;
Sec. 17: Lot 8;
Sec. 18: Lots 12 and 15;
Sec. 19: Lot 10;
Sec. 22: Lots 1 and 6;
Sec. 23: Lots 11 and 15.
Containing 769.69 acres.

All of the coal in the above land consists of unleased Federal coal within the Powder River Basin Known Coal Resource Area. The purpose of the exploration program is to conduct exploration drilling on the above listed land.

ADDRESSES: A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under serial number *WYW133297*): BLM, WSO, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82003; *and*, BLM, CDO, Branch of Solid Minerals, 1701 East "E" Street, Casper, WY 82601.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in the News-Record of Gillette, WY, once each week for two (2) consecutive weeks and is expected to begin on July 13, 1994, and in the **Federal Register**. Any party electing to participate in this exploration program must sent written notice to both the BLM *and* the Cordero Mining Co., no later than thirty (30) days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: BLM, WSO (WSO 925–9), Chief, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, WY 82003–1828, Cordero Mining Co., Attn: Mr. Bob Green, HSEQ Supervisor, P.O. Box 1449, Gillette, WY 82717–1449, *and* Kennecott Energy Co., Attn: Mr. Richard Pearce *or* Mr. John Trummel, Caller Box 3009, Gillette, WY 82716–3009. The foregoing is published in the **Federal Register** pursuant to Title 43 Code of Federal Regulations, Section 3410.2–1(c)(1).

Lynn E. Rust,

Chief, Branch of Mining Law and Solid Minerals.

[FR Doc. 94–16962 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–22–M

[AK–070–04–4230–23; F–91212]

Permit of Public Land, Titna River, Alaska

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action involves a proposal for a three year renewable permit to Nathan D. Turner. The permit is intended to authorize construction, maintenance and operation of a commercial use cabin for trapping purposes in the Titna River drainage approximately 140 air miles southwesterly of Nenana and 110 air miles southeasterly of Galena, Alaska.

DATES: Comments and an application must be received by August 29, 1994.

ADDRESSES: Comments and an application must be submitted to the Kobuk District Manager, 1150 University Avenue, Fairbanks, Alaska 99709–3899.

FOR FURTHER INFORMATION CONTACT: Dave Mobraten—(907) 474–2330.

SUPPLEMENTARY INFORMATION: The site examined and found suitable for permitting under the provisions of Section 302 of the Federal Land Policy and Management Act of 1976, and 43 CFR Part 2920, is described as within:

Section 17 & 20, T. 13 S., R. 28 E.

Kateel River Meridian, Alaska

An application will only be accepted from Nathan D. Turner who presently uses this area for trapping. Comments and the application must include reference to this notice. A category II processing fee of $300 must be submitted with the application and a monitoring fee of $75 will be due prior to issuance of the permit. Annual rental shall be fair market value as determined by appraisal.

Dated: June 30, 1994.

Helen M. Hankins,

Kobuk District Manager.

[FR Doc. 94–16899 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–JA–M

[OR–942–00–4730–02; G4–212]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 37 S., R. 20 E., accepted May 27, 1994;
T. 17 S., R. 47 E., accepted June 6, 1994;
T. 16 S., R. 2 W., accepted June 6, 1994;
T. 38 S., R. 3 W., accepted June 6, 1994 (2 Sheets);
T. 24 S., R. 6 W., accepted June 27, 1994;
T. 33 S., R. 7 W., accepted June 7, 1994;
T. 9 S., R. 9 W., accepted June 29, 1994;
T. 30 S., R. 9 W., accepted June 7, 1994;
T. 10 S., R. 10 W., accepted June 29, 1994;

Washington

T. 32 N., R. 18 E., accepted June 16, 1994;
T. 21 N., R. 4 W., accepted May 27, 1994.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 N.E. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 1, 1994.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 94–16914 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Notice of Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Dan L. Pike, Edmonds, WA. The applicant wishes to establish a cooperative breeding program for the European sparrowhawk (*Accipiter nisus*) and the European goshawk (*Accipiter gentilis*). The applicant wishes to be an active participant in this program with two other private individuals who are members of the Washington Falconers Association. The Washington Falconers Association has assumed responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: July 8, 1994.

Mark Phillips,

Acting Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 94–16997 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–55–P

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Donald Levatino, Baton Rouge, LA, PRT–791845

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Pine Louw, "Bankfontein" Springfontein, Republic of South Africa, for the purpose of enhancement of survival of the species.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: National Biological Survey, Sirenia Project, Gainesville, FL, PRT–791721

Type of Permit: Scientific Research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus*), 200.

Summary of Activity to be Authorized: The applicant requests a permit to (1) radio tag up to 60 manatees per year, (2) PIT tag up to 30 manatees per year, (3) tail-notch up to 50 manatees per year, (4) freeze-brand up to 45 manatees per year, (5) conduct up to 5 non-harmful, non-invasive behavioral and physiological studies on captive manatees, (6) conduct up to 10 non-harmful, non-invasive behavioral and physiological studies on free-ranging manatees, (7) collect dead manatees and those obtained from carcass examinations, and (8) export and import parts of salvaged dead manatees.

Source of Marine Mammals for Research: Wild and captive manatees of all sexes and ages to be used in the research throughout its range.

Period of Activity: Through 1999.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of the application from the National Biological Survey to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 420(c), Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing under the Marine Mammal Protection Act should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: July 8, 1994.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–16975 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–55–P

Availability of the Draft Environmental Assessment for the Issuance of a Special Use Permit to the Government of Guam for the Proposed Ritidian Point Territorial Park, Guam National Wildlife Refuge, Dededo, Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the draft Environmental Assessment (EA) for the issuance of a Special Use Permit to the Government of Guam for the proposed Ritidian Point Territorial Park on the Guam National Wildlife Refuge, Dededo, Guam is available for public review.

WRITTEN COMMENTS INFORMATION: Interested agencies, organizations, and individuals are encouraged to provide written comments to the Fish and Wildlife Service within 30 days after publication of this Notice. Address comments to the Field Supervisor as shown below:

FOR FURTHER INFORMATION CONTACT: Jerry Leinecke Field Supervisor, Refuges, Hawaiian and Pacific Islands NWR Complex, P.O. Box 50167, Honolulu, HI 96850, (808) 541–1201.

Individuals wishing copies of this draft EA for review should immediately contact the above named individual.

SUPPLEMENTARY INFORMATION: Field Supervisor, Jerry Leinecke, Hawaiian

and Pacific Islands NWR Complex, is the primary author of this document. The Fish and Wildlife Service, Department of the Interior, has prepared a draft EA on its proposal to issue a Special Use Permit to the Government of Guam for the proposed Ritidian Point Territorial Park within the Guam National Wildlife Refuge.

The Government of Guam proposes to establish and operate the Ritidian Point Territorial Park (RPTP) within an approximate 20.24 ha (50 acres) site of the Ritidian Point Unit of the Guam National Wildlife Refuge (NWR). The RPTP would be operated by the Guam Department of Parks and Recreation with the biological support of the Guam Department of Agriculture, Division of Aquatic and Wildlife Resources, in coordination with the U.S. Fish and Wildlife Service (Service). The proposed RPTP would provide the public with natural history educational and recreational opportunities within the setting of the Ritidian Point Unit of the Guam NWR. The proposed RPTP would be managed to be compatible with the purposes for which the Guam NWR was established and in accordance with a Special Use Permit issued by the Service to the Government of Guam for the use of the approximate 20.24 ha site within the Ritidian Point Unit.

The proposed action is anticipated to have only minimal direct, indirect, and cumulative effects on the human environment. The establishment, operation and maintenance of the park will occur on a site that has been previously disturbed by construction of fields, pavilions, shelters and Navy buildings and by the past use of the area for recreational purposes by the Navy.

The major alternatives under consideration that were analyzed and evaluated during planning are: (A) PREFERRED ALTERNATIVE, establishment of the proposed RPTP on an approximate 20.24 ha (50 acre) site within the Ritidian Point Unit by the Guam Department of Parks and Recreation; (Alternative 2) establishment of a Territorial Park at Tarague Basin, South Finegayan, Falcona Beach, or the Anao Conservation Area at the present time; (Alternative 3) establishment of a public use area at the Ritidian Point Unit by the Service; (Alternative 4) which is the No Action alternative.

Staffs of the Government of Guam, Department of Parks and Recreation and the U.S. Fish and Wildlife Service jointly cooperated to plan, prepare and evaluate the proposals and prepare this draft EA. Detailed information concerning consultation and coordination is contained in Section VII of the draft EA.

All agencies and individuals are urged to provide comments and suggestions for improving this EA as soon as possible. All comments received during the designated comment period will be considered in preparation of the final EA for this proposed action.

Dated: June 28, 1994.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 94–16971 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico; Notice of Leasing Systems, Sale 150

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the **Federal Register**:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. *Bidding systems to be used.* In the Outer Continental Shelf (OCS) Sale 150, blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (a) bonus bidding with a fixed 16⅔-percent royalty on all unleased blocks in less than 400 meters of water; and (b) bonus bidding with a fixed 12½-percent royalty on all remaining unleased blocks.

a. *Bonus Bidding with a 16⅔-Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

b. *Bonus Bidding with a 12½-Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA. It has been chosen for certain deeper water blocks proposed for the Western Gulf of Mexico (Sale 150) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow-water blocks. Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12½-percent royalty system would be less than for the same blocks under a 16⅔-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

2. *Designation of Blocks.* The selection of blocks to be offered under the two systems was based on the following factors:

a. Lease terms on adjacent, previously leased blocks were considered to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12½-percent royalty system based on the favorable performance of this system in these high-cost areas as evidenced in our analyses.

The specific blocks to be offered under each system are shown on Map 2 entitled "Western Gulf of Mexico Lease Sale 150—Final Bidding Systems and Bidding Units." This map is available from the Minerals Management Service, Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: June 27, 1994.

Tom Fry,

Director, Minerals Management Service.

Approved:

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 94–16900 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–MR–P

Outer Continental Shelf, Western Gulf of Mexico, Gas and Oil Lease Sale 150

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of sale.

1. *Authority.* This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356, (1988)), and the regulations issued thereunder (30 CFR Part 256).

2. *Filing of Bids.* Sealed bids will be received by the Regional Director (RD), Gulf of Mexico Region, Minerals

Management Service (MMS), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m. Central Standard Time (c.s.t.)) until the bid submission deadline at 10 a.m., Tuesday, August 16, 1994. Hereinafter, all times cited in this Notice refer to c.s.t. unless otherwise stated. Bids will not be accepted the day of bid opening, Wednesday, August 17, 1994. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or written withdrawal request is received by the RD prior to 10 a.m., Tuesday, August 16, 1994. Bid opening time will be 9 a.m., Wednesday, August 17, 1994, at the Sheraton Hotel, 500 Canal Street, New Orleans, Louisiana. All bids must be submitted and will be considered in accordance with applicable regulations including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the **Federal Register** at 59 FR 14425, published March 28, 1994.

3. *Method of Bidding.* A separate signed bid in a sealed envelope labeled "Sealed Bid for Gas and Oil Lease Sale 150, not to be opened until 9 a.m., c.s.t., Wednesday, August 17, 1994," must be submitted for each block bid upon. The sealed envelope and the bid should contain the following information: the company name, qualification number, area number and/or name (abbreviations acceptable), and the block number of the block bid upon. In addition, the total amount bid must be in whole dollar amounts.

Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior—Minerals Management Service. For identification purposes, the company name and company qualification number should also appear on the check or draft together with the bid block identification (abbreviations acceptable). No bid for less than all of the unleased portions of a block will be considered.

All documents must be executed in conformance with signatory authorizations on file in the Gulf of Mexico regional office. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

4. *Bidding, Yearly Rental, and Royalty Systems.* The following bidding, yearly rental, and royalty systems apply to this sale:

(a) *Bidding Systems.* All bids submitted at this sale must provide for a cash bonus in the amount of $25 or more per acre or fraction thereof.

(b) *Yearly Rental.* All leases awarded will provide for a yearly rental payment of $5 per acre or fraction thereof.

(c) *Royalty Systems.* All leases will provide for a minimum royalty of $5 per acre or fraction thereof. The following royalty systems will be used in this sale:

(1) *Leases With a 12½-Percent Royalty.* This royalty rate applies to blocks in water depths of 400 meters or greater as shown on the Stipulations, Lease Terms, and Bidding Systems map (see paragraph 13(a)). Leases issued on the blocks offered in this area will have a fixed royalty rate of 12½ percent.

(2) *Leases With a 16 ⅔-Percent Royalty.* This royalty rate applies to blocks in water depths of less than 400 meters (see aforementioned map). Leases issued on blocks offered in this area will have a fixed royalty rate of 16 ⅔ percent.

5. *Equal Opportunity.* The certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985), must be on file in the Gulf of Mexico regional office prior to lease award (see paragraph 14(e)).

6. *Bid Opening.* Bid opening will begin at the bid opening time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of bid opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. *Deposit Of Payment.* Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal Of Blocks.* The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. *Acceptance, Rejection, Or Return Of Bids.* The United States reserves the right to reject any and all bids. In any case, no bid may be accepted, and no lease for any block will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

10. *Successful Bidders.* Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid along with the first year's annual rental for each lease issued, by electronic funds transfer in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended. See **Federal Register** at 58 FR 45255, published August 27, 1993.

11. *Leasing Maps and Official Protraction Diagrams.* Blocks offered for lease may be located on the following Leasing Maps or Official Protraction Diagrams which may be purchased from the Gulf of Mexico regional office (see paragraph 14(a)):

(a) OCS Leasing Maps—Texas Nos. 1 through 8. This is a set of 16 maps which sells for $18.00.

(b) OCS Official Protraction Diagrams. These diagrams sell for $2.00 each.

NG 14–3 Corpus Christi (revised 01/27/76)
NG 14–6 Port Isabel (revised 01/15/92)
NG 15–1 East Breaks (revised 01/27/76)
NG 15–2 Garden Banks (revised 10/19/81)
NG 15–4 Alaminos Canyon (revised 04/27/89)
NG 15–5 Keathley Canyon (revised 04/27/89)
NG 15–8 (No Name) (revised 04/27/89)

(c) A complete set of all the above OCS Leasing Maps and Official Protraction Diagrams is available on microfiche for $5.00 per set.

12. *Description Of the Areas Offered for Bids.*

(a) Acreages of blocks are shown on Leasing Maps and Official Protraction Diagrams. Some of these blocks, however, may be partially leased or transected by administrative lines such as the Federal/State jurisdictional line. Information on the unleased portions of such blocks, including the exact acreage, is included in the following document available from the Gulf of Mexico regional office: Western Gulf of Mexico Lease Sale 150—Final. Unleased Split Blocks and Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease.

(b) *Blocks not available for leasing:* The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11 (a), (b), and (c), except for those blocks or partial blocks already under lease, as listed below, and blocks deferred from bidding as follows:

(1) Although currently unleased and shown on Texas Leasing Map No. 7C, High Island Area, East Addition, South Extension, no bids will be accepted on Blocks A–375 and A–398 (at the Flower Garden Banks).

(2) No bids will be accepted on the following blocks located off Corpus Christi which have been identified by the Navy as needed for testing equipment and training mine warfare personnel: Mustang Island Area Blocks 793, 799, and 816.

(3) No bids will be accepted on Block A–125, as shown on Leasing Map No. 6A, Galveston, South Addition, the status of which is currently under appeal.

(4) Western Gulf of Mexico Leased Lands—Descriptions of blocks listed represent all Federal acreage leased unless otherwise noted:

South Padre Island

1030, 1040, 1043, 1044, 1052, 1059, 1060, 1073, 1111, 1112, 1122, 1125, 1134, 1166.

North Padre Island

886, 887, 908, 927, 956, 957, 967, 968, 969, 976, 987, 988, 989.

North Padre Island, East Addition

891, 892, 911, 932, 951, 952, 970, 974, 975, 990, 993, 995, 996, 1011, 1018, A–6, A–9, A–10, A–11, A–27, A–38, A–42, A–43, A–48, A–55, A–59, A–64, A–69, A–70, A–72, A–75, A–76, A–86, A–87.

Mustang Island

738, 739, 740, 742, 743, 752, 754, 755, 756, 757, 758, 759, 762, 763, 764, 765, 767, 768, 769, 778, 779, 781, 782, 783, 784, 785, 786, 787, 789, 790, 791, 801, 802, 803, 804, 805, 806, 807, 809, 811, 812, 813, 814, 822, 823, 824, 825, 826, 828, 830, 831, 837, 846, 847, 849, 850, 851, 858, 868, 869, 870, 871, 872, 873, 875, 876, A–2 (NE¼ NW¼ NE¼; NE¼ NW¼; NE¼ SE¼ NW¼; W½ NW¼ NE¼), A–3, A–5, A–6, A–7, A–10, A–11, A–15, A–16, A–17, A–21, A–22, A–26, A–27, A–30, A–31, A–32, A–33, A–38.

Mustang Island, East Addition

736, 760, A–46, A–47, A–51, A–53, A–57, A–61, A–65, A–70, A–71, A–85, A–86, A–96, A–97, A–110, A–111, A–112, A–119, A–121, A–122, A–124, A–135, A–138, A–149.

Matagorda Island

487, 518, 519, 520, 526, 527, 528, 529 (Landward of 8(g) Line), 555, 556, 557, 564, 565, 566, 567, 568, 587, 588, 589, 591, 592, 599, 600, 601, 602, 603, 604, 605, 606, 607, 616, 617, 618, 619, 620, 622, 623, 624, 632, 633, 634 (Seaward of 8(g) Line), 635, 636, 637, 638, 639, 640, 641, 649, 650, 651, 652, 653, 654, 656, 657, 658, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 674, 676, 678, 680, 681, 682, 683, 685, 686, 687, 688, 689, 696, 699, 700, 701, 703, 704, 705, 707, 709, 710, 712, 713, 714, 715, 716, A–4, A–7, A–8.

Brazos

341, 342, 364 (Landward of 8(g) line), 365, 375, 376, 378, 396, 397, 398, 399, 411, 412, 413, 415, 416, 417, 431, 432, 435 (Seaward of 8(g) Line), 436, 437, 439, 449, 451, 452 (E½), 453, 454, 455, 456, 457, 458, 466, 468, 469, 470, 471, 473, 474, 475, 476, 477, 488, 491, 492, 493, 494, 495, 496, 498, 501, 502, 504, 506, 507, 509, 510, 514, 515, 516, 517, 531, 532, 533, 534, 535, 537, 538, 539, 542, 543, 544, 546, 549, 550, 552, 570, 571, 572, 576, 577, 578, 580, 584, 608, 613, 614, 615, A–2, A–3, A–6, A–7, A–9, A–10, A–14, A–17, A–19, A–20, A–21, A–22, A–23, A–24, A–25, A–31, A–36, A–37, A–38, A–39, A–40, A–41, A–43.

Brazos, South Addition

A–46, A–47, A–51, A–52, A–53, A–61, A–62, A–65, A–66, A–70, A–71, A–76, A–77, A–84, A–85, A–101, A–102, A–104, A–105, A–106, A–110, A–111, A–127, A–128, A–132, A–133.

Galveston

144, 151, 152, 180, 181, 182, 189, 190, 191, 192, 209, 210, 211, 213, 223, 225, 227, 237, 238, 239, 240, 241, 242 (Landward of 8(g) Line), 243, 252, 253, 255, 256, 257, 258, 265, 266, 267, 268, 270, 271, 272, 273, 274, 281, 283, 284, 285, 288, 289, 290, 291, 294, 295 (S½ NE¼ NE¼; NW¼ NE¼; W½ SW¼ NE¼; NE¼ SW¼ NE¼; N½ SE¼ NE¼; W½; W½ NW¼ SE¼; S½ SE¼), 296 (NE¼; NE¼ NE¼ NW¼; S½ NE¼ NW¼; SE¼ NW¼; S½ SW¼ NW¼; N½ SW¼; NE¼ SW¼ SW¼; N½ SE¼ SW¼; N½ SE¼; N½ SW¼ SE¼; SE¼ SE¼), 297, 298, 299, 301, 302, 303, 304, 305, 312, 313, 314, 318, 319, 320, 321, 322, 324, 325, 326, 328, 329, 330, 331, 332, 333, 343, 344, 345, 346, 347, 348, 349, 350, 351, 354, 356, 357, 358, 359, 360, 361, 363, 379, 380, 383, 384, 385, 386, 389, 390, 391, 392, 393, 394, 395, 418, 420, 421, 428, 429, 460, 503, A–2, A–15, A–16, A–18, A–21, A–24, A–34, A–35, A–39, A–40, A–41, A–42, A–49, A–50, A–86, A–101, A–105, A–110, A–111.

Galveston, South Addition

A–122, A–142, A–143, A–144, A–145, A–218.

High Island

19, 20, 21, 22, 34, 36, 52, 53, 67, 68, 69, 70, 71, 73, 86, 87, 88, 89, 90, 93, 97, 98, 105, 106, 108, 109, 110, 111, 113, 115, 116, 117, 134, 135 (N½; N½ S½; SW¼ SW¼; W½ SE¼ SW¼; NE¼ SE¼ SW¼; N½ S½ SE¼), 136 (E½; E½ NE¼ SW¼; S½ SE¼ SW¼), 137, 138 (N½), 139, 140, 143, 153, 154, 155 (W½), 156, 160 (NE¼; NE¼ NW¼; E½ SE¼ NW¼; N½ SE¼; N½ SE¼ SE¼), 161 (NW¼ NE¼ NW¼; S½ NE¼ NW¼; W½ NW¼; SE¼ NW¼; NE¼ NE¼ SW¼; W½ NE¼ SW¼; NW¼ SW¼; NW¼ SW¼ SW¼), 162, 164, 165, 169, 170, 171, 175, 176, 177, 178, 179, 193, 194, 195, 196, 197, 199, 200, 201, 204, 206, 207, 208, 228, 229, 230, 231, 232, 234, 235, 236, 261, 262, A–1, A–2, A–3, A–5, A–6, A–7, A–9, A–12, A–16, A–17, A–18, A–19, A–20, A–21, A–22, A–23, A–26, A–30, A–36, A–37, A–38, A–39, A–42, A–44, A–45, A–46, A–50, A–52, A–53, A–60, A–61, A–63, A–64, A–68, A–69, A–73, A–74, A–77, A–78, A–83, A–87, A–100, A–122, A–123, A–125, A–127, A–128, A–129, A–130, A–133, A–137.

High Island, South Addition

A–411, A–412, A–417, A–421, A–422, A–424, A–434, A–435, A–438, A–441, A–442, A–443, A–444, A–446, A–447, A–448, A–462, A–465, A–466, A–467, A–468, A–469, A–470, A–471, A–472, A–474, A–475, A–477, A–479, A–486, A–488, A–489, A–490, A–491, A–494, A–496, A–497, A–499, A–500, A–501, A–503, A–506, A–510, A–511, A–512, A–513, A–515, A–517, A–518, A–519, A–520, A–521, A–523, A–524, A–528, A–530, A–531, A–532, A–535, A–536, A–537, A–538, A–539, A–540, A–545, A–547, A–548, A–549, A–550, A–551, A–552, A–553, A–555, A–556, A–557, A–558, A–560, A–561, A–562 (SW¼),

A–563, A–564, A–568, A–570, A–571, A–572, A–573, A–574, A–576, A–577, A–582, A–585, A–587, A–588, A–589, A–593, A–595, A–596.

High Island, East Addition

39, 45, 46, 74, 75, 76, 85, 120, 128, 129, 166, 167, A–168, A–169, A–171, A–172, A–173, A–174, A–175, A–176, A–185, A–187, A–192, A–195, A–200, A–201, A–224, A–231, A–233, A–244, A–245, A–246, A–247, A–250, A–253.

High Island, East Addition, South Extension

A–263, A–269, A–270, A–271, A–272, A–274, A–279, A–280, A–281, A–282, A–283, A–285, A–286, A–287, A–293, A–295, A–299, A–300, A–301, A–302, A–303, A–305, A–309, A–310, A–313, A–314, A–315, A–316, A–317, A–323, A–325, A–327, A–329, A–330, A–331, A–332, A–334, A–335, A–339, A–340, A–341, A–343, A–349, A–350, A–351, A–352, A–355, A–356, A–359, A–362, A–365, A–368, A–369, A–370, A–371, A–372, A–373, A–374, A–376, A–377, A–378, A–379, A–382, A–383, A–384, A–385, A–389, A–391, A–392, A–393, A–395, A–396, A–397, A–402, A–403.

Sabine Pass

17, 18, 40

East Breaks

109, 110, 112, 117, 122, 125, 154, 156, 157, 158, 159, 160, 161, 165, 166, 167, 168, 169, 171, 172, 173, 209, 215, 216, 237, 238, 246, 254, 255, 260, 290, 303, 329, 330, 342, 343, 344, 345, 386, 388, 389, 392, 393, 402, 403, 430, 431, 437, 462, 473, 474, 475, 476, 477, 506, 507, 518, 520, 562, 563, 564, 565, 566, 593, 598, 599, 602, 604, 605, 607, 608, 609, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 653, 654, 683, 684, 685, 686, 688, 689, 690, 691, 692, 728, 729, 732, 739, 740, 741, 783, 784, 785, 901, 902, 904, 943, 944, 945, 946, 947, 948, 949, 987, 988, 989, 990, 991, 992, 994.

Garden Banks

21, 22, 26, 28, 29 , 65, 70, 71, 72, 73, 75, 76, 80, 83, 84, 103, 117, 119, 120, 123, 126, 127, 128, 134, 135, 136, 141, 142, 144, 145, 147, 157, 158, 161, 162, 164, 165, 166, 167, 168, 170, 171, 172, 180, 183, 186, 188, 189, 190, 191, 192, 200, 201, 202, 203, 206, 207, 208, 209, 210, 211, 212, 213, 215, 216, 217, 224, 225, 233, 234, 235, 236, 237, 240, 248, 250, 252, 253, 254, 255, 257, 258, 259, 260, 261, 269, 276, 277, 278, 279, 287, 289, 290, 291, 298, 299, 300, 302, 304, 319, 322, 323, 329, 330, 331, 333, 342, 343, 344, 345, 353, 354, 361, 362, 363, 365, 366, 368, 371, 374, 375, 376, 377, 379, 381, 382, 386, 387, 388, 389, 397, 398, 405, 406, 407, 413, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 463, 464, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 498, 499, 506, 507, 508, 512, 513, 514, 515, 516, 517, 535, 543, 544, 549, 550, 554, 555, 556, 557, 558, 559, 562, 563, 593, 598, 599, 600, 601, 602, 603, 622, 623, 629, 630, 638, 639, 644, 645, 646, 653, 674, 682, 683, 694, 697, 726, 727, 738, 739, 740, 741, 754, 767, 768, 769, 771, 772, 782, 783, 784, 785, 798, 803, 804, 806, 811, 812, 813, 814, 815, 816, 817, 826, 831, 832, 833, 848, 849, 850, 855, 856, 860, 875, 876, 877, 885, 902, 903, 919, 920, 921, 929, 930, 938, 939, 940, 947, 963, 964, 974, 975.

Port Isabel

39, 40, 81, 82, 125, 126, 130, 131, 174, 175, 216, 218, 393, 436, 437, 438, 481, 482, 483, 524, 525, 526, 568, 569, 570, 610, 611, 613, 653, 654, 655, 656, 657, 696, 697, 698, 700, 701, 740, 741.

Alaminos Canyon

20, 21, 22, 23, 24, 25, 26, 65, 133, 192, 236, 237, 261, 280, 305, 336, 337, 380, 398, 441, 442, 485, 489, 490, 491, 533, 534, 556, 557, 558, 599, 600, 601, 602, 644, 645, 646, 647, 648, 687, 691, 719, 720, 726, 730, 731, 734, 735, 736, 763, 764, 766, 767, 770, 774, 775, 780, 781, 810, 811, 813, 814, 818, 827, 854, 856, 857, 900, 901, 903, 904, 947, 951, 954.

Keathley Canyon

6, 7, 133, 134, 155, 156, 157, 158, 159, 177, 178, 179, 199, 200, 201, 202, 212, 221, 242, 243, 245, 246, 255, 256, 324, 377, 421, 422, 476, 522, 523, 567, 568, 583, 584, 603, 604, 647, 648, 695.

13. *Lease Terms and Stipulations.*

(a) Leases resulting from this sale will have initial terms as shown on the Stipulations, Lease Terms, and Bidding Systems map applicable to this Notice and will be issued on Form MMS–2005 (March 1986). Copies of the map and lease form are available from the Gulf of Mexico regional office (see paragraph 14(a)).

(b) The applicability of the stipulations which follow is as shown on the aforementioned map and as supplemented by references in this Notice.

Stipulation No. 1—Protection of Archaeological Resources

(This stipulation will apply to all blocks offered for lease in this sale. Bidders should refer also to paragraph 14(g) of this Notice for specific survey requirements. See also paragraph 14(i).)

(a) "Archaeological resource" means any prehistoric or historic district, site, building, structure, or object (including shipwrecks); such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object (16 U.S.C. 470w(5)). "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Director (RD) believes an archaeological resource may exist in the lease area, the RD will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RD, to determine the potential existence of any archaeological resource that may be affected by operations. The report, prepared by an archaeologist and a geophysicist, shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information. The lessee shall submit this report to the RD for review.

(2) If the evidence suggests that an archaeological resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be, or

(ii) Establish to the satisfaction of the RD that an archaeological resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RD. A report on the investigation shall be submitted to the RD for review.

(3) If the RD determines that an archaeological resource is likely to be present in the lease area and may be adversely affected by operations, the RD will notify the lessee immediately. The lessee shall take no action that may adversely affect the archaeological resource until the RD has told the lessee how to protect it.

(c) If the lessee discovers any archaeological resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RD. The lessee shall make every reasonable effort to preserve the archaeological resource until the RD has told the lessee how to protect it.

Stipulation No. 2—Protection of Topographic Features

(This stipulation will be included in leases located in the areas so indicated in the Biological Stipulation Map Package associated with this Notice which is available from the Gulf of

Mexico regional office. See paragraph 14(a).)

The banks which cause this stipulation to be applied to blocks of the Western Gulf are:

Bank name	No activity zone defined by isobath (meters)
Shelf Edge Banks:	
West Flower Garden Bank[1] (defined by 1/4 1/4 system).	100
East Flower Garden Bank[1] (defined by 1/4 1/4 system).	100
MacNeil Bank	82
29 Fathom Bank	64
Rankin Bank	85
Geyer Bank	85
Elvers Bank	85
Bright Bank[2]	85
McGrail Bank[2]	85
Rezak Bank[2]	85
Sidner Bank[2]	85
Parker Bank[2]	85
Stetson Bank	62
Applebaum Bank	85
Low Relief Banks:[3]	
Mysterious Bank	74, 76, 78, 80, 84
Coffee Lump	Various
Blackfish Ridge	70
Big Dunn Bar	65
Small Dunn Bar	65
32 Fathom Bank	52
Claypile Bank[4]	50
South Texas Banks:[5]	
Dream Bank	78, 82
Southern Bank	80
Hospital Bank	70
North Hospital Bank	68
Aransas Bank	70
South Baker Bank	70
Baker Bank	70

[1] Flower Garden Banks—In paragraph (c) a "4-Mile Zone" rather than a "1-Mile Zone" applies.

[2] Central Gulf of Mexico bank with a portion of its "1-Mile Zone" and/or "3-Mile Zone" in the Western Gulf of Mexico.

[3] Low Relief Banks—Only paragraph (a) applies.

[4] Claypile Bank—Paragraphs (a) and (b) apply. In paragraph (b) monitoring of the effluent to determine the effect on the biota of Claypile Bank shall be required rather than shunting.

[5] South Texas Banks—Only paragraphs (a) and (b) apply.

(a) No activity including structures, drilling rigs, pipelines, or anchoring will be allowed within the listed isobath ("No Activity Zone" as shown in the aforementioned Biological Stipulation Map Package) of the banks as listed above.

(b) Operations within the area shown as "1,000-Meter Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

(c) Operations within the area shown as "1-Mile Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom. (Where there is a "1-Mile Zone" designated, the "1,000 Meter Zone" in paragraph (b) is not designated.)

(d) Operations within the area shown as "3-Mile Zone" in the aforementioned Biological Stipulation Map Package shall be restricted by shunting all drill cuttings and drilling fluids from development operations to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

Stipulation No. 3—Military Warning Areas

(This stipulation will be included in leases located within Warning Areas as shown on the map described in paragraph 13(a).)

(a) Hold and Save Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf (OCS), to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the OCS; if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table below.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee; and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the appropriate military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of its officers, agents, or employees; and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The lessee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed in the table below to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors, and onshore facilities.

(c) Operational

The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the individual designated warning areas, shall enter into an agreement with the commander of the individual command headquarters listed in the following list, upon utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats, ships, and aircraft operating into the warning areas at all times.

Warning Areas' Command Headquarters for Western Planning Area:

W–228—Chief, Naval Air Training, Naval Air Station, Office No. 206, Corpus Christi, Texas 78419–5100, Telephone: (512) 939–3862/2621.

W–602—Headquarters ACC/DOSR, Detachment 1, Operations Headquarters, Air Combat Command, Offutt AFB, Nebraska 68113–5550, Telephone: (402) 294–2334.

Stipulation No. 4—Operations in the Naval Mine Warfare Area

(This stipulation will apply to Mustang Island Area East Addition blocks 732, 733, and 734.)

(a) The placement, location, and planned periods of operation of surface structures on this lease during the exploration stage are subject to approval by the Regional Director (RD), Minerals Management Service Gulf of Mexico Region, after the review of an operator's Exploration Plan (EP). Prior to approval of the EP, the RD will consult with the Commander, Mine Warfare Command, in order to determine the EP's compatibility with scheduled military operations. No permanent structures nor debris of any kind shall be allowed in the area covered by this lease during exploration operations.

(b) To the extent possible, sub-seafloor development operations for resources subsurface to this area should originate outside the area covered by this lease. Any above-seafloor development operations within the area covered by this lease must be compatible with scheduled military operations as determined by the Commander, Mine Warfare Command. The lessee will consult with and coordinate plans for above sea-floor development activities (including abandonment) with the Commander, Mine Warfare Command. The Development Operations Coordination Document (DOCD) must contain the locations of any permanent structures, fixed platforms, pipelines, or anchors planned to be constructed or placed in the area covered by this lease as part of such development operations. The DOCD must also contain the written comments of the Commander, Mine Warfare Command on the proposed activities. Prior to approval of the DOCD, the RD will consult with the Commander in order to determine the DOCD's compatibility with scheduled military operations.

For more information, consultation, and coordination, the lessee must contact:

Commander, Mine Warfare Command, 325 Fifth Street, SE., Corpus Christi, Texas 78419–5032, Phone: (512) 939–4895.

14. *Information to Lessees.*

(a) *Supplemental Documents.* For copies of the various documents identified as available from the Gulf of Mexico regional office, prospective bidders should contact the Public Information Unit, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, either in writing or by telephone at (504) 736–2519 or (800) 200–GULF. For additional information, contact the Regional Supervisor for Leasing and Environment at the above address or by telephone at (504) 736–2759.

(b) *Navigation Safety.* Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended.

U.S. Corps of Engineers (COE) permits are required for the construction of any artificial islands, installations, and other devices temporarily or permanently attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

For additional information, prospective bidders should contact Lt. Commander Ken Parris, Assistant Marine Port Safety Officer, 8th Coast Guard District, Hale Boggs Federal Building, New Orleans, Louisiana 70130, telephone (504) 589–6901. For COE information, prospective bidders should contact Mr. Dolan Dunn, Chief Evaluation Section, Regulatory Branch, P.O. Box 1229, Galveston, Texas 77553, telephone (409) 766–3935.

(c) *Offshore Pipelines.* Lessees are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) *8-Year Leases.* Bidders are advised that any lease issued for a term of 8 years will be cancelled after 5 years, following notice pursuant to the OCS Lands Act, as amended, if within the initial 5-year period of the lease, the drilling of an exploratory well has not been initiated; or if initiated, the well has not been drilled in conformance with the approved exploration plan criteria; or if there is not a suspension of operations in effect, etc. Bidders are referred to 30 CFR 256.37.

(e) *Affirmative Action.* Revision of the Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see **Federal Register** of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS–2005, March 1986) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60–1.5(a)(1) and 60–1.7(a)(1). Submission of Form MMS–2032 (June 1985) and Form MMS–2033 (June 1985) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(f) *Ordnance Disposal Areas.* Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Corpus Christi and East Breaks areas, shown on the map described in paragraph 13(a). These areas were used to dispose of ordnance of unknown composition and quantity. These areas have not been used since about 1970. Water depths in the Corpus Christi area range from approximately 600 to 900 meters. Water depths in the East Breaks area range from approximately 300 to 700 meters. Bottom sediments in both areas are generally soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards.

(g) *Archaeological Resources.* Bidders are advised of the Notice to Lessees (NTL) affecting the historic shipwreck requirements published December 20, 1991, in the **Federal Register** pages 66076–66082 with an effective date of February 17, 1992. This NTL details the survey methodology, including a more intensive survey with line spacing 50 meters apart, and report writing requirements. A Letter to Lessees (LTL) of November 30, 1990, lists those blocks identified as having a high probability for encountering historic shipwrecks. Copies of the NTL and LTL are available from the MMS Public Information Unit. See paragraph 14(a).

(h) *Proposed Rigs To Reefs.* Bidders are advised that there are OCS artificial reef sites and planning sites for the Gulf of Mexico. These are generally located in water depths of less than 200 meters. While all existing and proposed sites require a permit from the U.S. Army Corps of Engineers, this "Rigs to Reefs" program is implemented through State sponsorship through the following State Coordinators:

Alabama: Mr. Walter M. Tatum (205) 968–7578.

Louisiana: Mr. Rick Kasprzac (504) 765–2375.

Mississippi: Mr. Mike Buchanan (601) 385–5868.

Texas: Ms. Jan Coulbertson (512) 389–4863.

For more information on artificial reef sites, prospective bidders should contact the above listed State Artificial Reef Coordinator for their areas of interest.

(i) *Archaeological Surveys and Reports.* Bidders are advised that a Proposed Rule has been published in the **Federal Register** dated Tuesday, October 12, 1993, which proposes to grant specific authority to each MMS Regional Director to require archaeological surveys and reports (under 30 CFR 250.26). This proposed rule specifically states the authority of MMS and conditions for requiring lessees or operators to conduct archaeological resource surveys and submit the reports prior to exploration, development and production, or installation of pipelines. This rule, when adopted, may apply to all blocks leased in this sale.

Dated: June 27, 1994.

Tom Fry,

Director, Minerals Management Service.

Approved:

Nancy K. Hayes,

Acting Assistant Secretary—Land and Minerals Management.

[FR Doc. 94–16901 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–MR–P

Southwestern Pennsylvania Industrial Heritage Preservation Commission

Southwestern Pennsylvania Industrial Heritage Route; Designation of Vehicular Tour Route

AGENCY: Southwestern Pennsylvania Heritage Preservation Commission, Interior.

ACTION: Notice of designation of the Southwestern Pennsylvania Industrial Heritage Route.

SUMMARY: This notice, issued in accordance with the provisions of Public Law 100–698, which established the Southwestern Pennsylvania Heritage Preservation Commission ("Commission"), announces the designation of the Southwestern Pennsylvania Industrial Heritage Route.

ADDRESSES: Southwestern Pennsylvania Heritage Preservation Commission, P.O. Box 565, Hollidaysburg, PA 16648.

FOR FURTHER INFORMATION CONTACT: Karl King, Projects Manager, Southwestern Pennsylvania Heritage Preservation Commission, telephone 814–696–9380.

SUPPLEMENTARY INFORMATION: Pub L. 100–698 established the Commission to provide, "the means by which the cultural heritage of the 9-county region in southwestern Pennsylvania associated with the three basic industries of iron and steel, coal and transportation may be recognized, preserved, promoted, interpreted, and made available for the benefit of the public." Title II, Sec. 201 of Pub. L. 100–698 provides that the Secretary of the Interior, with the concurrence of the agency having jurisdiction over such roads, shall designate, by publication in the **Federal Register**, a vehicular tour route along existing public roads linking historic, cultural, natural, scenic and recreational sites in southwestern Pennsylvania. Following a period of planning by the Denver Service Center of the National Park Service with substantial input from the public and the Pennsylvania Department of Transportation (herein referred to as "PennDOT"), the Secretary has designated, with the concurrence of PennDOT, the Southwestern Pennsylvania Industrial Heritage Route (herein referred to as the "Heritage Route"). The Heritage Route encompasses a distance of approximately 500 miles using existing roads through Bedford, Blair, Cambria, Fayette, Fulton, Huntingdon, Indiana, Somerset and Westmoreland Counties. The Secretary, in accordance with Pub. L. 100–698, Sec. 201.(a), and with concurrence of PennDOT and local entities having jurisdiction over the designated roads, shall erect signs and informational devices displaying the Heritage Route marker, also known as the "Path of Progress", along the designated roads. A list of the designated roads is published in its entirety below. A complete description and map of the Heritage Route system as well as a description of the "Path of Progress" markers is available through the Commission.

Cambria County

From Indiana County, on PA 56 (through *Westmoreland County*) and PA 403 to the Johnstown area.

Johnstown area: Through Johnstown on PA 56 (Haws Pike, Harold St., Strayer St., Fairfield Ave.—Cambria City area) or PA 403 (Cramer Pike, Cooper Ave., Broad St.) to Broad St. (PA 56/403), to Roosevelt Blvd., to Washington St. (downtown), to Clinton St., to Bedford St. (SR 3016/PA 756).

Leaving the Johnstown area on Bedford St. to Scalp Avenue (SR 3016, becoming PA 56 at US 219); to Windber (*Somerset County*) at 21st St. (PA 160); to Graham Ave. (PA 160); to 9th St. (PA 160); leaving Windber on PA 160 (re-entering *Cambria County*) to PA 869; PA 869; to SR 3024; to PA 53; to SR 2019 to SR 2014 (at Summit) to US 22; US 22 to PA 2016; to PA 1015; to PA 4008, entering Blair County.

Blair County

From Cambria County, SR 4008 to the Altoona/Hollidaysburg area.

Altoona/Hollidaysburg: Through Altoona on 40th St. to Beale Ave.; on Beale Ave. to Union Ave., becoming 18th St.; to 12th Ave.; to 12th St.; to 11th Ave.; to 16th St.; to 10th Ave.; to 17th St.; to 7th Ave. (becoming 6th Ave.); to Logan Blvd. (SR 4003, to PA 36) to Hollidaysburg on PA 36 (Penn St.) to Allegheny St.; to Bedford St. (at US 22/Broad St.); to PA 36; to Blair St. (US 22), leaving Hollidaysburg.

From Hollidaysburg, US 22 to Huntingdon County.

Huntingdon County

From Blair County on US 22; to SR 4014, becoming SR 4004 into Alexandria; to SR 305, returning to US 22; to PA 26 through Smithfield; to Penn Street (PA 26) through Huntingdon; to 2nd St., returning to US 22; to US 522 into Fulton County.

Fulton County

From Huntingdon County, US 522 to McConnellsburg; entering McConnellsburg on 2nd St. (US 522); to Market St.; to 3rd St.; to Lincoln Way (Old US 30/Lincoln Highway), becoming SR 1004; to US 30; US 30 to Bedford County.

Bedford County

From Fulton County, US 30 to Everett; Business US 30 (SR 1044) through Everett; US 30 to Bedford; Business US 30 (SR 4010/Pitt Street) into Bedford; to Penn St. (SR 4008); to West St., returning to Pitt St./Business US 30 (SR 4010); returning to US 30; to Somerset County.

Somerset County

From Bedford County on US 30; to PA 985; to PA 601; PA 601, entering Somerset to Center Ave. (PA 601); to Main St. (PA 31); to Harrison Ave. (PA 31); to Tayman Ave. (PA 281); PA 281 to PA 523; to US 40; to SR 3002 (through Addison); to US 40, into Fayette County.

Fayette County

From Somerset County on US 40, entering Uniontown; to Business US 40 (E. Main St.); to Pittsburgh St. (PA 51);

to US 119; to Bute Rd./SR 1051, leaving Uniontown; to PA 711 through Connellsville; to US 119; to SR 1029 through Everson, into Westmoreland County.

Extension to Ohiopyle State Park & Fallingwater: From US 40 at Farmington, to PA 381 (through Ohiopyle State Park) to Fallingwater.

Extension to Friendship Hill NHS: From downtown Uniontown, to Morgantown Rd. (SR 3019/Business US 119); to US 119; to PA 166; to Friendship Hill National Historic Site.

Extension to Searights Tollhouse & Brownsville: From downtown Uniontown, W. Main St.; to US 40 into Brownsville.

Westmoreland County

From Fayette County on SR 1029/3087; to SR 819 through Scottdale; to PA 31 through Mt. Pleasant; to PA 711 through Donegal; to US 30 through Ligonier; to PA 981 into Latrobe; to Lloyd Ave.; to Main St.; to Alexandria St.; to Thompson St.; to PA 981; to PA 286; to Indiana County.

Extension to Tunnelton/Indiana County: From PA 981, between New Alexandria Borough and PA 286; Township Road #939; to SR 3003, into Tunnelton.

Indiana County

From Westmoreland County, PA 286 through Saltsburg, to Indiana Borough, becoming Oakland Ave.; to Philadelphia St. (PA 286/954); to Sixth St. (PA 954); to Wayne Ave. (SR 4005) leaving Indiana Borough; to US 119 through Homer City: to PA 56 into Cambria County.

Dated: July 5, 1994.

Denis P. Galvin.

Acting Director, National Park Service.

[FR Doc. 94–16918 Filed 7–12–94; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Investigation No. 731–TA–653 (Final)

Sebacic Acid From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury [3] by reason of imports from the People's Republic of China of sebacic acid, provided for in subheading 2917.13.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 4, 1994, following a preliminary determination by the Department of Commerce that imports of sebacic acid from the People's Republic of China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 9, 1994 (59 F.R. 6044). The hearing was held in Washington, DC, on May 24, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 5, 1994. The views of the Commission are contained in USITC Publication 2793 (July 1994), entitled Sebacic Acid from the People's Republic of China: Investigation No. 731–TA–653 (Final).

By order of the Commission.

Issued: July 7, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16994 Filed 7–12–94; 8:45 am]

BILLING CODE 7020–02–P

Investigations Nos. 731–TA–448–450 (Final) (Remand)

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, the Republic of Korea and Taiwan

AGENCY: U.S. International Trade Commission.

ACTION: Notice of Remand Determination.

SUMMARY: The Commission hereby gives notice of a final court decision affirming its final negative determinations, made pursuant to court remand, in the above-identified antidumping duty investigations.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; (202) 205–3105. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

SUPPLEMENTARY INFORMATION: On September 19, 1990, the Commission published its determinations that an industry of the United States was materially injured by reason of imports of manmade fiber ("MMF") sweaters from Hong Kong, Korea, and Taiwan. 55 Fed. Reg. 38588 (Sept. 19, 1990); *Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan,* Invs. Nos. 731–TA–448–450 (Final), USITC Pub. 2312 (Sept. 1992). The Hong Kong, Korean and Taiwanese producers of the subject MMF sweaters sought review of those final determinations in the Court of International Trade (CIT).

On July 28, 1992, the CIT issued an Order, finding that the Commission's final injury determinations were unsupported by substantial evidence and otherwise not in accordance with law, and remanding the determinations to the Commission for further proceedings. *Chung Ling Co. v. United States,* 805 F. Supp. 45 (CIT 1992). On November 23, 1992, the Commission submitted its remand determinations to the CIT, finding on remand that an industry in the United States was not materially injured or threatened with material injury by reason of imports of the subject MMF sweaters, which the Department of Commerce ("Commerce") had determined are sold at less than fair value. *Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan,* Invs. Nos. 731–TA–448–450 (Final) (Remand), USITC Pub. 2577 (Nov. 1992).

The trade association representing the domestic sweaters producers, the National Knitwear and Sportswear Association ("NKSA") challenged the remand determinations before the CIT. On August 11, 1993, the CIT issued an order finding that the Commission's remand determinations fell within the scope of the remand order, and were supported by substantial evidence and otherwise in accordance with law.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Watson and Commissioner Rohr dissenting.

[3] Vice Chairman Nuzum, Commissioner Newquist, and Commissioner Bragg determine that an industry in the United States is threatened with material injury. Commissioner Crawford determines that an industry in the United States is materially injured.

Accordingly, the CIT sustained the Commission's remand determinations. *Chung Ling Co. v. United States*, 829 F. Supp. 1353 (CIT 1993).

Notice of the CIT's decision was published by Commerce, pursuant to 19 U.S.C. 1516a(c)(1), on November 12, 1993. 58 Fed. Reg. 59987 (Nov. 12, 1992). In accordance with *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), Commerce stated that it would continue the suspension of liquidation of the subject merchandise. Commerce's notice also indicated that, if the CIT decision was affirmed on appeal, the antidumping duty orders would be revoked.

Thereafter, NKSA appealed the CIT's judgment to the United States Court of Appeals for the Federal Circuit. On June 15, 1994, the Court of Appeals affirmed, without opinion, the CIT's final judgment upholding the Commission's negative remand determinations. *Chung Ling Co. v. USITC*, No. 94–1028 (Fed. Cir. June 15, 1994). On July 6, 1994, the Court of Appeals issued its mandate. The judicial proceedings having ended and the final court decision having been issued, the Commission now, pursuant to 19 U.S.C. 1516a(e), publishes notice of the final court decision affirming its negative remand determinations.

By order of the Commission.

Issued: July 6, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16995 Filed 7–12–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Judith Groves, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

AB–167 (SUB-NO. 1140X), CONSOLIDATED RAIL CORPORATION —ABANDONMENT EXEMPTION—IN ORANGE COUNTY, NEW YORK. EA available 7/8/94.

Comments on the following assessment are due 30 days after the date of availability:

AB–398 (SUB-NO. 3X), SAN JOAQUIN VALLEY RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN FRESNO COUNTY, CALIFORNIA AB–402 (SUB-NO. 2X), FOX VALLEY & WESTERN LTD.—ABANDONMENT EXEMPTION—IN KEWAUNEE COUNTY, WI. EA available 7/8/94.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16955 Filed 7–12–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32470]

Greater Shenandoah Valley Development Company, d/b/a Shenandoah Valley Railroad Company, and Buckingham Branch Railroad Company—Operation Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the operation by Buckingham Branch Railroad Company of Greater Shenandoah Valley Development Company's 20.2-mile line of railroad in Rockingham and Augusta Counties, VA, subject to standard labor protective conditions.

DATES: This exemption will be effective on July 23, 1994. Petitions for stay must be filed by July 15, 1994. Petitions to reopen must be filed by July 18, 1994.

ADDRESSES: Send pleadings, referring to Finance Docket No. 32470 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; (2) Victor J. Ludlum, Shenandoah Valley Railroad Company, P.O. Box 8100, Harrisonburg, VA 22801; and (3) Robert E. Bryant, Buckingham Branch Railroad Company, P.O. Box 336, Dillwyn, VA 23936.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: June 30, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, Commissioners Simmons and Morgan.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16956 Filed 7–12–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems

Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Freedom of Information Act/Privacy Act (FOIPA) Customer Service Feedback Plan.
(2) Executive Officer of the United States Attorney's.
(3) On Occasion.
(4) Individuals or households, Business or other for profit, Non-profit institutions, Small business or organizations. The Freedom of Information Act/Privacy Act (FOIPA) Customer Service Team seeks to survey Department of Justice Freedom of Information and Privacy Act requesters to determine their expectation of services and their level of satisfaction with existing services. Based on the information collected, the Department of Justice components may change policies or procedures to enhance or streamline their Freedom of Information/Privacy Act operations.
(5) 5,000 respondents @ .25 hours per response.
(6) 1,025 annual burden hours.
(7) Not applicable under Section 3504(h).
Public comment on this item is encouraged.

Dated: July 7, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–16938 Filed 7–12–94; 8:45 am]

BILLING CODE 4410–07–M

Antitrust Division

Proposed Modification of Final Judgment

Notice is hereby given that defendant Broadcast Music, Inc. ("BMI") has filed with the United States District Court for the Southern District of New York a motion to modify the Final Judgment in *United States v. Broadcast Music, Inc. et al.*, 64 Civ. 3787, and the Department of Justice ("Department"), in a stipulation also filed with the Court, has consented to modification of the Final Judgment, but has reserved the right to withdraw its consent based on public comments or for other reasons. The Complaint in this case (filed on December 10, 1964) alleged that BMI and 517 broadcasters who owned its voting stock constituted a combination to restrain and monopolize, and an attempt to monopolize, the business of acquiring and licensing to broadcasters copyrighted music rights, in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1 and 2.

The Final Judgment (entered on December 29, 1966) provides, among other things, that any licenses obtained by BMI from composers for music performance rights must be non-exclusive, that BMI must offer through-to-the-viewer and per-program licenses to radio and television networks and cable programming services, and that BMI's license rates and terms must be non-discriminatory. Unlike the similar decree in *U.S. v. ASCAP* Civ. No. 13–95 (WCC), however, the BMI Judgment has no provision for court adjudication of license fees for music performing rights where BMI and a potential licensee are unable to reach agreement.

The Department has filed with the Court a memorandum setting forth the reasons why it believes that modification of the Final Judgment to provide a rate court for the adjudication of disputed license fees would be in the public interest. Copies of the Complaint, the Final Judgment, the defendant's motion papers, the Stipulation containing the Government's tentative consent, the Department's memorandum, and all further papers filed with the Court in connection with this motion will be available for inspection at Room 3235, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (Telephone: (202) 514–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, Foley Square, New York, New York 10007. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department regulations.

Interested persons may submit comments to the Department regarding the proposed modification of the Final Judgment. Such comments must be received within the sixty-day period established by court order, and will be filed with the Court by the Department. Comments should be addressed to Gail Kursh, Chief, Professions and Intellectual Property Section, Antitrust Division, Department of Justice, 555 Fourth Street, NW., Washington, DC 20001 (telephone: (202) 307–5799).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–16915 Filed 7–12–94; 8:45 am]

BILLING CODE 4410–01–M

United States and State of Florida v. Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc., No. 94–748–CIV–T–23E (M.D. Fla., Filed May 5, 1994)

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Consent Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Middle District of Florida in the above-captioned case.

On May 5, 1994, the United States and State of Florida filed a complaint to block the proposed combination of the two largest general acute care hospitals in North Pinellas County, Florida. Morton Plant Health System, Inc. ("MPHS") owns and operates Morton Plant Hospital ("Morton Plant") in Clearwater, and Trustees of Mease Hospital, Inc. ("TMH") owns and operates the Mease hospitals in Dunedin and Safety Harbor ("Mease"). The Complaint alleges that the combination of Morton Plant and Mease may substantially lessen competition in the provision of acute inpatient hospital services in North Pinellas County, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The proposed Final Consent Judgment prohibits the consolidation of Morton Plant and Mease and requires that they remain as independent, competing hospitals. It also, however, permits MPHS and TMH to form a partnership in which they may jointly own and operate certain acute care and administrative services. The partnership would sell its services at cost to each hospital, which would market and price all of its services—both those owned separately and those jointly owned and operated through the partnership—independently and in competition with the other. The proposed Judgment permits MPHS and TMH to achieve substantial efficiencies while preserving the vigorous competition between them that has restrained their prices to managed care and other health insurance plans.

Public comment is invited within the statutory 60-day period. Such comments will be published in the **Federal Register** and filed with the Court. Comments should be addressed to Gail Kursh, Chief, Professions and Intellectual Property Section, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., Room

9903, Washington, DC 20001 (phone 202/307–5799).

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States District Court for the Middle District of Florida, Tampa Division

United States of America and State of Florida, Plaintiffs, v. Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc., Defendants. Civ. No. 94–748–CIV–T–23E, Judge Steven D. Merryday, Filed: June 17, 1994.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Middle District of Florida;

2. The parties consent that a Final Consent Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiffs have not withdrawn their consent, which they may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court; and

3. Defendants agree to be bound by the provisions of the proposed Final Consent Judgment pending its approval by the Court. If either plaintiff withdraws its consent, or if the proposed Final Consent Judgment is not entered pursuant to the terms of the Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

Dated: June 17, 1994.

For Plaintiffs:

Robert A. Butterworth,

Attorney General.

Jerome W. Hoffman,

Chief, Antitrust Section.

Lizabeth A. Leeds,

Assistant Attorney General, FL Bar # 0457991.

Office of the Attorney General, State of Florida, The Capitol, Tallahassee, FL 32399–1050, (904) 488–9105, (904) 488–9134 (fax).

Anne K. Bingaman,

Assistant Attorney General.

Steven C. Sunshine,

Deputy Assistant Attorney General.

Constance K. Robinson,

Director of Operations.

Gail Kursh,

Chief, Professions and Intellectual Property Section.

K. Craig Wildfang,

Special Counsel to the Assistant Attorney General, Antitrust Division.

Anthony E. Harris, Trial Counsel

Jon B. Jacobs

Jessica N. Cohen

M. Lee Doane

U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., Room 9901, Washington, DC 20001, (202) 307–0951, (202) 514–1517 (fax).

For Defendants:

Emil C. Marquardt, Jr., Esquire,

McFarlane Ausley Ferguson & McMullen, 400 Cleveland Street, P.O. Box 1669, Clearwater, FL 34617, (813) 441–8966, (813) 422–8470 (fax).

United States of America and State of Florida, Plaintiffs v. Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc., Defendants. Civil No. 94–748–CIV–T–23E, Judge Steven D. Merryday, Filed: June 17, 1994.

Final Consent Judgment

Plaintiffs, the United States of America and the State of Florida, having filed their Verified Complaint on May 5, 1994, and Plaintiffs and Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc., by their respective attorneys, having consented to the entry of this Final Consent Judgment without trial or adjudication of any issue of fact or law, and without this Final Consent Judgment constituting evidence against or admission by any party with respect to any issue of fact or law;

NOW, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law, it is hereby ORDERED, ADJUDGED AND DECREED:

I

Jurisdiction

This Court has jurisdiction of the subject matter and each of the parties to this action. The Verified Complaint states a claim upon which relief may be granted against Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc. under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II

Definitions

As used in this Final Consent Judgment:

(A) *Eligible Partnership Patient Care Services* means the following patient care services that Morton Plant and Mease may elect to own, manage, operate or provide by the Partnership described herein:

(1) all patient care services provided by Morton Plant or Mease on an outpatient basis that are generally capable of being provided outside of a general acute care hospital;

(2) open-heart surgery and/or services or procedures that require the immediate availability of an open-heart surgery unit;

(3) robotically assisted prosthetic implantation and special spinal instrumentation procedures involving the insertion of multiple rods in the spinal cord;

(4) stem cell procedures, advanced linear accelerator equipment and procedures, and HDR brachy therapy;

(5) stereotactic radio therapy;

(6) inpatient and outpatient diagnostic and therapeutic radiology services (e.g., CAT scans, MRI, X-ray, ultrasound, nuclear angiography);

(7) inpatient and outpatient laboratory services;

(8) neonatal level III services;

(9) inpatient and outpatient mental health services; and

(10) home health care, home infusion services, durable medical equipment, rehabilitative services, skilled nursing, retirement facilities and long-term care.

(B) *Eligible Partnership Administrative Services* means the following administrative services that Morton Plant and Mease may elect to own, manage, operate or provide by the Partnership described herein:

(1) human resources (except management positions at the hospital level with responsibility for management, marketing, planning, pricing or managed care contracting);

(2) medical staff organization and development, including medical staff development and recruitment, physician organization structure, advising on practice acquisition, governance and credentialing;

(3) information services;

(4) telephone and other communication services;

(5) accounting, billing and collection;
(6) housekeeping and laundry;
(7) medical records;
(8) materials management and plant maintenance;
(9) support services for charitable foundations; and
(10) all miscellaneous services not related to patient care and not exceeding an expenditure of $250,000 annually.

(C) *Independent Services* means all services other than those carried out by the Partnership under this Final Consent Judgment.

(D) *Managed Care Plan* means a health maintenance organization, preferred provider organization, or other health services purchasing program that uses financial or other incentives to prevent unnecessary services and includes some form of utilization review.

(E) *Mease* means the Trustees of Mease Hospital, Inc. and all subsidiaries and affiliates.

(F) *Morton Plant* means Morton Plant Health System, Inc. and all subsidiaries and affiliates.

(G) *Partnership* means the nonprofit, tax-exempt organization that Morton Plant and Mease may create and operate in accordance with this Final Consent Judgment.

III

Applicability

This Final Consent Judgment applies to Morton Plant and Mease, to the Partnership created by them, to Morton Plant's and to Mease's officers, directors, trustees, administrators, agents, employees, successors and assigns and to all other persons in active concert or participation with any of them who receive actual notice of this Final Consent Judgment pursuant to F.R.C.P. 65(d).

IV

Prohibited Conduct

Morton Plant and Mease shall not consummate their agreement to consolidate as set forth in their Letter of Intent, dated October 19, 1993, or any other agreement to merge, consolidate, or combine, except in accordance with the terms of this Final Consent Judgment.

V

Bona Fide Partnership

Morton Plant and Mease may enter into a Partnership in which they consolidate and jointly operate certain patient care services and administrative services under the following conditions:

(A) Morton Plant and Mease may agree to consolidate and jointly operate any Eligible Partnership Patient Care Services and any Eligible Partnership Administrative Services.

(B) The Partnership may own and operate any Eligible Partnership Patient Care Service and any Eligible Partnership Administrative Service and may provide such service to Morton Plant and Mease. The Partnership shall sell each service to Morton Plant and Mease on the same terms and conditions in an amount equal to cost. The Partnership shall conduct an annual cost accounting.

(C) Morton Plant and Mease may appoint members to a Partnership board, which individuals may be members of each hospital's board. Executives at Morton Plant and Mease may also serve as executives of the Partnership and on the boards of their respective hospitals and of the Partnership. The Partnership board will govern the services provided by the Partnership. The Partnership board and its executives may not discuss Independent Services, managed care contracting for Morton Plant or Mease, or the marketing or pricing of any services, including Eligible Partnership Patient Care Services or Eligible Partnership Administrative Services, with the following exception: the Partnership may market and price those services set out in Paragraph II(A)(10) as long as Morton Plant and Mease continue their present practice of providing their patients and physicians with information on other providers of these services in the market. The Partnership board may request Morton Plant and Mease to contribute capital to the Partnership, but each hospital shall exercise its own independent judgment on how much capital to contribute.

(D) Morton Plant and Mease shall provide plaintiffs with written notification of their intent to consolidate and jointly operate any additional or new services (such as pediatrics and neonatal level II services) through the Partnership under the terms of this Final Consent Judgment. Morton Plant and Mease shall also provide any information reasonably necessary for plaintiffs to assess the competitive impact of adding such services to the Partnership. Morton Plant and Mease may consolidate and jointly operate the additional or new services unless either plaintiff provides a written objection within 120 days of receiving the necessary information. Notwithstanding the foregoing, Morton Plant and Mease may jointly operate through the Partnership any new service not currently provided by Morton Plant or Mease by providing plaintiffs with at least 90-days' notice, so long as the new service is a specialized inpatient procedure commonly recognized in the medical community as "tertiary" or higher, and is performed only by physician subspecialists with specialized support staff and expensive equipment.

(E) Morton Plant may lend or grant Mease up to $21 million for Mease's planned expansion under terms preventing Morton Plant from obtaining any control or leverage over Mease's management or operations.

(F) Morton Plant, Mease and the Partnership may become obligated parties, guarantors or co-makers on debt instruments and the assets of Morton Plant, Mease and the Partnership may be pledged as security for such debt instruments so long as all such obligations are approved separately by Morton Plant and Mease. Neither Morton Plant nor Mease shall unreasonably withhold consent to, impose conditions on, or attempt to influence the use of funds obtained by the other hospital through such financing for Independent Services. In the event that Morton Plant or Mease believes the other has unreasonably withheld such consent, the matter shall be submitted to binding arbitration under the American Arbitration Association Rules.

(G) Nothing in this Final Consent Judgment is intended to prevent Morton Plant, Mease and/or the Partnership from participating in lawful integrated delivery networks such as accountable health partnerships, physician organizations and physician networks of their medical staff; provided that participation decisions shall be made independently by Morton Plant, Mease and the Partnership.

(H) In the event that federal or state legislation enacted subsequent to the entry of the Final Consent Judgment permits conduct prohibited by this Judgment, Morton Plant and Mease may move for and plaintiffs will reasonably consider an appropriate modification of the Final Consent Judgment. This provision in no way limits Morton Plant's or Mease's right to seek any modification of this Final Consent Judgment.

(I) The Partnership shall establish adequate protections to keep information concerning pricing, managed care contracts, negotiations with managed care plans, and marketing and planning of Morton Plant and Mease separate and to insure that the information of one hospital is not transmitted to or received by the other hospital directly or indirectly. Adequate protections shall include, at a minimum, confidentiality agreements

for employees with access to such information and protocols for preparation of separate reports for Morton Plant, Mease, and the Partnership.

(J) The Partnership may make any lawful acquisition of physician practices. However, in the event that a practice is acquired that admits patients to either hospital for Independent Services, Morton Plant and Mease shall allow each such physician to determine in his or her sole discretion to which hospital to admit such patients.

VI

Independent Activities

(A) Morton Plant and Mease shall continue as separate and competing corporate entities, with separate Boards of Trustees and executive management, and shall separately own and operate their respective Independent Services. Marketing, pricing, and managed care negotiating and contracting decisions shall remain Independent Services to be considered only in each hospital board's respective meeting. Each board shall adhere to a separate agenda and will record such meeting in separate minutes.

(B) Morton Plant and Mease shall each price and sell its services, both those owned and operated and operated separately and those purchased from the Partnership, in active competition with each other. Morton Plant and Mease shall each exercise its own independent judgment on how to market and price its patient care services and shall not discuss, communicate, or exchange with each other or any other hospital information relating to the marketing, pricing, negotiating, or contracting of any patient care services, including those purchased from the Partnership.

(C) Morton Plant or Mease shall be free to offer any patient care service or administrative service provided through the Partnership independently and in competition with any other provider and may end its provision of any such service through the Partnership.

(D) Morton Plant and Mease shall negotiate and contract independently with health care purchasers such as Managed Care Plants. Morton Plant and Mease may contract with the same Managed Care Plan or any other health care purchaser so long as they do so independently; provided, that Morton Plant and Mease may independently enter into similar but separate contracts with the same Managed Care Plan.

VII

Compliance Program

Morton Plant and Mease shall maintain an antitrust compliance program, which shall include:

(A) Distributing within 60 days from the entry of this Final Consent Judgment, a copy of the Final Consent Judgment and Competitive Impact Statement to all officers, directors, trustees and administrators;

(B) Distributing in a timely manner a copy of the Final Consent Judgment and Competitive Impact Statement to any person who succeeds to a position described in Paragraph VII(A);

(C) Briefing annually those persons designated in Paragraph VII(A) on the meaning and requirements of this Final Consent Judgment, penalties for violation thereof and the antitrust laws, including potential antitrust concerns raised by hospitals;

(D) Obtaining from the officers and administrators an annual written certification that he or she has read, understands and agrees to abide by this Final Consent Judgment and in not aware of any violation of this Final Consent Judgment; and

(E) Maintaining for inspection by plaintiffs a record of recipients to whom this Final Consent Judgment and Competitive Impact Statement have been distributed.

VIII

Certifications

(A) Within 75 days after the entry of this Final Consent Judgment, Morton Plant and Mease shall each certify to plaintiffs whether it has made the distribution of this Final Consent Judgment in accordance with Paragraph VII(A) above.

(B) For five years after the entry of this Final Consent Judgment, on or before its anniversary date, Morton Plant and Mease shall each certify annually to plaintiffs whether it has complied with the provisions of Paragraph VII.

IX

Plaintiffs' Access

For the sole purpose of determining or securing compliance with this Final Consent Judgment, and subject to any recognized privilege, authorized representatives of the United States Department of Justice or the Office of the Attorney General, State of Florida, upon written request of the Assistant Attorney General in charge of the Antitrust Division or the Attorney General of the State of Florida, respectively, shall on reasonable notice be permitted:

(A) Access during regular business hours of Morton Plant and Mease to inspect and copy all records and documents relating to any matters contained in this Final Consent Judgment;

(B) To interview Morton Plant and Mease officers, directors, trustees, administrators, and employees, who may have counsel present, concerning such matters; and

(C) To obtain written reports from Morton Plant and Mease relating to any of the matters contained in the Final Consent Judgment.

X

Jurisdiction Retained

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Consent Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Consent Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI

Expiration of Final Consent Judgment

This Final Consent Judgment shall expire 5 years from the date of entry; provided that, before the expiration of this Final Consent Judgment, either plaintiff, after consultation with Morton Plant and Mease and in each plaintiff's sole discretion, may extend the Judgment for an additional five years.

XII

Public Interest Determination

Entry of this Final Consent Judgment is in the public interest.

Steven D. Merryday,

United States District Judge.

United States of America and State of Florida, Plaintiffs, v. Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc., Defendants. Civ. No. 94–748–CIV–T–23E, Judge Steven D. Merryday, June 30, 1994.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Consent Judgment (or "the Judgment") submitted for entry against Morton Plant Health System, Inc. ("MPHS") and Trustees of Mease Hospital, Inc. ("TMH") in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

The United States of America and the State of Florida, acting under the direction of their respective Attorneys General, filed this civil antitrust suit on May 5, 1994, alleging that the proposed combination of MPHS and TMH, owners of the two largest general acute care hospitals in North Pinellas County, Florida, violates Section 7 of the Clayton Act, 15 U.S.C. 18.

MPHS owns and operates Morton Plant Hospital in Clearwater, Florida ("Morton Plant"), the largest general acute care hospital in North Pinellas County. TMH owns and operates the Mease hospitals in Dunedin and Safety Harbor, Florida ("Mease"), which together constitute the second-largest general acute care hospital in North Pinellas County.

The Verified Complaint alleges that the combination of these principal competitors under common ownership may substantially lessen competition in the provision of acute inpatient hospital services in North Pinellas County and likely increase prices for those services to health care consumers. These higher prices will be paid by health care purchasers, particularly health insurance plans, employers, and unions and ultimately result in an increase in prices individual consumers pay for health insurance coverage.

The prayer for relief seeks: (1) A judgment that the proposed consolidation of MPHS and TMH violates Section 7 of the Clayton Act; (2) preliminary and permanent injunctions preventing defendants from consummating their agreement to consolidate or from going forward with any other plan by which Morton Plant would be combined with Mease; (3) attorneys fees; and (4) costs.

II

The Practices and Events Giving Rise to the Alleged Clayton Act Violation

A. Background

Morton Plant and Mease are the two largest general acute care hospitals in North Pinellas County. Morton Plant, with 672 licensed acute care hospital beds, generated about $130 million in net inpatient revenues in fiscal year 1993. Mease, with a total of 358 licensed acute care hospital beds on two campuses, generated about $75 million in net inpatient revenues in fiscal year 1993.

Morton Plant and Mease, like other general acute care hospitals, receive the bulk of their revenues from the provision of acute inpatient hospital services—*i.e.*, services provided for the diagnosis and treatment of patients who require an overnight hospital stay. Acute inpatient hospital services include room and board, medical and surgical services, around-the-clock monitoring and observation, nursing care, and laboratory, x-ray and support services.

Acute inpatient hospital services are sold to a variety of purchasers, including managed care health insurance plans such as health maintenance organizations and preferred provider organizations (colloquially known as HMOs and PPOs). These plans contract with a select number of competing hospitals and employ financial incentives to encourage plan enrollees to use the contracted facilities. Hospitals reduce the prices of services provided to managed care plan enrollees in return for the plans' commitment to increase the volume of patients hospitals receive.

Managed care plans and other price-sensitive health care purchasers rely on competition among hospitals to obtain hospital services at competitive rates. This, in turn, permits managed care plans to offer health insurance to consumers at lower prices. Managed care plans constitute a significant, and growing, percentage of Morton Plant's and Mease's revenues from patient care.

B. Product Market

The Verified Complaint alleges that the appropriate product market within which to assess the competitive effect of the proposed combination of Morton Plant and Mease is the provision of acute inpatient hospital services. A relevant product market consists of those products that are reasonably interchangeable by consumers for the same purpose. The pivotal question in the determination is whether a small but significant increase in the price of one product would cause enough buyers to turn to other products so as to make the price increase unprofitable.

It is well established that acute inpatient services constitute a relevant product market for analyzing a merger of general acute care hospitals. The market for acute inpatient services is separate from the market for outpatient services, which general acute care hospitals also provide. Patients whose treatment or condition requires an overnight hospital stay cannot be safely or effectively treated on an outpatient basis. For this reason, health care purchasers, including managed care plans, do not view outpatient services as substitutes for acute inpatient services. General acute care hospitals profitably could increase the price of acute inpatient hospital services without causing a significant number of health care purchasers to switch to outpatient services.[1]

C. Geographic Market

The Verified Complaint alleges that North Pinellas County, the portion of Pinellas County north of Ulmerton Road, is the relevant geographic market.

Pinellas County is the most densely populated county in Florida. A long, narrow peninsula, surrounded on three sides by large bodies of water, the Gulf of Mexico and Tampa Bay, Pinellas County is geographically isolated from Tampa, the area's major city. In addition, because few major highways connect communities in the northern and southern ends of the County, it is extremely difficult to travel between North and South Pinellas County, a problem which is much worse during the winter months when the area's population swells with a seasonal influx of tourists and winter residents.

For these reasons, residents of North Pinellas, physicians practicing in North Pinellas, and health care purchasers such as managed care plans with North Pinellas enrollees strongly prefer to use or contract with general acute care hospitals in North Pinellas for acute inpatient hospital services. In 1992, over 85 percent of North Pinellas County residents who were hospitalized were admitted to general acute care hospitals in North Pinellas. Very few physicians who practice at hospitals in North Pinellas admit patients to hospitals in other areas. Health care purchasers such as managed care plans do not consider hospitals in other areas to be good substitutes for North Pinellas hospitals. Therefore, general acute care hospitals in North Pinellas County profitably could increase the price of acute inpatient hospital services without losing a significant number of patients to hospitals in other areas.

D. Effect of the Combination

As the largest general acute care hospitals in North Pinellas County, Morton Plant and Mease control, respectively, about 38% and 20% of all general acute care hospital beds in that area. Together, Morton Plant and Mease would dominate the market for the provision of acute inpatient hospital services with a combined share of 58%. The market is highly concentrated by

[1] Moreover, mergers between general acute care hospitals typically do not raise competitive concerns in the market for outpatient services because hospitals compete with many other providers (such as clinics, ambulatory surgery centers, and physicians' offices) in the provision of those services.

any measure of hospital capacity or output, and market concentration would increase substantially as a result of the proposed combination.

Health care purchasers such as managed care plans have secured competitive rates for acute inpatient hospital services because Morton Plant and Mease have vigorously competed for their business. A full-fledged merger of Morton Plant and Mease, in which they would market and price all of their services together, would eliminate that competitive rivalry, significantly reduce the ability of managed care plans to bargain for competitive rates, and permit the combination to increase prices for acute inpatient hospital services to the detriment of health care purchasers and consumers.

III

Explanation of the Proposed Final Consent Judgment

The United States, the State of Florida and Morton Plant and Mease have stipulated that the Court may enter the proposed Final Consent Judgment at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h). The Judgment provides that its entry does not constitute any evidence or admission by any party with respect to any issue of fact or law.

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(e), the Judgment may not be entered unless the Court finds entry is in the public interest. Section XII of the proposed Judgment sets forth such a finding.

A. Terms

The proposed Final Consent Judgment prohibits Morton Plant and Mease from merging and requires them to remain as separate, competing hospitals. Morton Plant and Mease may, however, enter into a Partnership in which they consolidate and jointly operate certain general acute care and administrative services under specified terms. The proposed Judgment is designed to permit Morton Plant and Mease to achieve substantial efficiencies while preserving maximum competition between them.

The acute care (or "patient") services eligible for Partnership operation include: outpatient services; laboratory services; mental health services; diagnostic and therapeutic radiology services; and certain inpatient services that are commonly recognized as "tertiary" services—*i.e.*, those procedures performed by physician subspecialists with specialized support staff and expensive equipment. The tertiary services eligible for Partnership operation include: neonatal level III services; open heart surgery and similar procedures; robotically assisted prosthetic implantation and special spinal instrumentation procedures; stem cell procedures, HDR brachy therapy and advanced linear accelerator equipment and procedures; and stereotactic radio therapy. The Partnership also may own and operate home health care, home infusion services, durable medical equipment, rehabilitative services, skilled nursing, retirement facilities and long-term care. (Section II(A)).

The eligible Partnership administrative services include: human resources (with some exceptions); medical staff organization and development; information services; telephone and other communication services; accounting, billing and collection; housekeeping and laundry; medical records; materials management and plant maintenance; support services for charitable foundations; and certain miscellaneous services. (Section II(B)).[2]

Section V sets forth the conditions under which the Partnership may operate. Morton Plant and Mease may agree to consolidate and jointly operate any eligible Partnership patient care and administrative service. (Section V(A)). They may appoint a Partnership board, which may consist of individuals from each hospital's board. (Section V(C)). The Partnership must sell its services to Morton Plant and Mease on the same terms and conditions in an amount equal to cost. (Section V(B)).

All services other than those eligible for consolidation through the Partnership are defined as "Independent Services." (Section II(C)). Morton Plant and Mease must continue to operate these services separately. (Section VI(A)). Specifically, all marketing, managed care contracting and pricing decisions must remain independent. (*Id.*) Each hospital must price and sell all services (both Independent and Partnership Services) in active competition with the other. (Section VI(B)). The Partnership board may not discuss Independent Services, managed care contracting for the hospitals, or the pricing of any service with the individual hospital boards with minor exceptions. (Section V(C)).[3]

Additionally, the Judgment provides that Morton Plant may lend or grant Mease up to $21 million for Mease's planned expansion under terms preventing Morton Plant from obtaining any control or leverage over Mease's management or operations. (Section V(E)). Moreover, Morton Plant, Mease and the Partnership may become obligated parties, guarantors or co-makers on debt instruments and their assets may be pledged as security for such instruments so long as such obligations are approved separately. Neither Morton Plant nor Mease shall unreasonably withhold consent to, impose conditions on, or attempt to influence the use of funds obtained by the other hospital through such financing for Independent Services. (Section V(F)). The Judgment directs Morton Plant and Mease to establish adequate protections to ensure that the hospitals do not share competitively sensitive information concerning pricing, managed care contracts, and marketing and planning functions. These protections shall include, at a minimum, confidentiality agreements for employees with access to such information and protocols for preparation of separate reports for Morton Plant, Mease, and the Partnership. (Section V(I)). The Judgment also requires Morton Plant and Mease to maintain an antitrust compliance program and annually certify compliance with the Judgment, and permits plaintiffs access to monitor compliance. (Sections VII, VIII, and IX).

B. Effect on Competition

The Court's entry of this proposed Judgment would be a "double win" for consumers. First, the Judgment preserves the vigorous competitive rivalry between Morton Plant and Mease, thereby insuring that consumers will continue to reap the benefits of competition in the form of lower prices and better services. Second, the Judgment permits Morton Plant and Mease to achieve substantial cost savings by combining and jointly operating certain services through a Partnership. The preservation of competition between Morton Plant and

[2] Services currently provided by one of the hospitals may be added to the Partnership if plaintiffs are provided with written notification and any information reasonably necessary for them to assess the competitive impact of adding such services and they do not object within 120 days. (Section V(D)). Any new service not currently provided by either Morton Plant or Mease may be combined and jointly operated by the Partnership with at least 90 days notice, so long as the new service is a specialized inpatient procedure commonly recognized in the medical community as tertiary or higher and is performed only by physician subspecialists with specialized support staff and expensive equipment. (*Id.*).

[3] The Partnership may market and price home health care, home infusion services, durable medical equipment, rehabilitative services, skilled nursing retirement facilities and long term care as long as Morton Plant and Mease continue their present practice of providing patients and physicians with information on other providers of the services in the market.

Mease will insure that these savings will be passed on to consumers.

The Partnership is unlikely to result in a lessening of competition. The proposed Judgment permits Morton Plant and Mease to consolidate only those services for which consolidation would pose few, if any, competitive concerns. The services eligible for inclusion in the Partnership can be roughly grouped into three categories: outpatient, tertiary, and administrative.

A consolidation of Morton Plant's and Mease's outpatient services would pose no significant competitive risk because there are a very large number of providers of such services in North Pinellas County. In addition to general acute care hospitals, other providers of outpatient services include physician offices, clinics, and ambulatory surgery centers. Furthermore, in North Pinellas County it is relatively easy for new providers of outpatient services to enter the market.

Nor would a consolidation of certain tertiary services offered by Morton Plant or Mease threaten competition. For some of these services, a consolidation would have no effect because only one of the hospitals currently provides that service. For example, open-heart surgery is currently provided by Morton Plant, but not by Mease. Even for services in which the hospitals currently compete, persons are typically willing to travel greater distances for highly sophisticated, tertiary-level care than they are for more routine medical care. Therefore, Morton Plant and Mease compete in providing these services in a geographic market much broader than North Pinellas County. For example, the geographic market for level III neonatal care includes at least several major hospitals in South Pinellas County, and the same is true for other tertiary services that the Judgment permits Morton Plant and Mease to consolidate.

Finally, the proposed Judgment protects against anticompetitive harm from the joint ownership and operation of certain administrative services. Services such as human resources, information services, accounting, billing, and collection, are only a part of the inputs into Morton Plant's and Mease's provision of acute care services. Currently, Morton Plant and Mease independently decide how to allocate their administrative costs in pricing their acute care services to managed care plans and other health care purchasers, and they will continue to do so under the Judgment.[4] Moreover, the proposed Judgment requires the Partnership to establish protections to ensure that the joint operation of administrative services does not result in any sharing of information such as pricing or managed care contracting for Morton Plant and Mease, thus guarding against the risk of "spillover" of competitively sensitive information from the Partnership to the independent hospitals. (Section V(I)).

In addition to these protections, the proposed Judgment requires Morton Plant and Mease to market, price and sell all of their services—even those jointly owned and operated through the Partnership—in competition with each other and other hospitals.[5] This ensures that both hospitals will remain as separate and viable competitors and permits them the maximum flexibility in competing for managed care contracts in the future.

IV

Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Consent Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against Morton Plant or Mease in this matter.

V

Procedures Available for Modification of the Proposed Final Consent Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposal Final Consent Judgment should be modified may submit written comments to Gail Kursh, Chief, Professions and Intellectual Property Section, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW, Room 9903, Washington, DC 20001, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to a stipulation signed by the United States and Morton Plant and Mease, to withdraw its consent to the Judgment at any time prior to entry. Section X of the Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for modification, interpretation, or enforcement of the Judgment.

VI

Determinative Materials/Documents

No materials or documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), were considered in formulating the proposed Final Consent Judgment.

VII

Alternative to the Proposed Final Consent Judgment

The alternative to the proposed Judgment is a full trial on the merits. While the Department is confident of its ability to succeed in such a trial, the litigation involves difficult issues of law and fact. A favorable outcome is not a certainty. Had the Department won a litigated judgment, at most the Court would have barred the combination. The consent judgment agreed to by the parties achieves the same underlying objective—preserving the vigorous competitive rivalry between Morton Plant and Mease—by requiring them to continue competing for all general acute care services, including those consolidated through the Partnership. It has the additional advantage, which a litigated judgment in favor of plaintiffs would not, of allowing defendants to achieve potential efficiencies and cost savings.

Respectfully submitted,

Anthony E. Harris,
Trial Counsel.
Jon B. Jacobs
Jessica N. Cohen
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Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Rm. 9901, Washington, DC 20001, 202/307–0951, 202/514–1517 (fax).

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[4] Of course, Morton Plant and Mease also "compete" in purchasing these administrative services, but they do so in a geographic market much larger than North Pinellas County. The consolidation would not lessen competition in that market to any substantial degree.

[5] The minor exceptions to this would be home health care, home infusion services, durable medical equipment, rehabilitative services, skilled nursing retirement facilities and long term care, for which the markets are very competitive in North Pinellas County. (Section V(C)).

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 94–53; Exemption Application No. D–9486, et al.]

Grant of Individual Exemptions; Knoxville Surgical Group Profit Sharing Plan, et al.

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, D.C. 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.

Knoxville Surgical Group Profit Sharing Plan (the Plan) Located in Knoxville, Tennessee

[Prohibited Transaction Exemption 94–53; Exemption Application No. D–9486]

Exemption

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: (1) the lease (the Lease) of certain real property (the Condominium) by the Plan to Knoxville Surgical Group, P.C. (the Employer), the Plan sponsor and a party in interest with respect to the Plan, following the exchange (the Swap) of real property owned by the Plan for the Condominium owned by Fort Sanders Medical Center, an unrelated party; and (2) a future exercise of (a) a certain indemnity agreement (the Indemnity Agreement) between the Employer and the Plan; and (b) a certain guarantee (the Guarantee) of Lease payments to the Plan by the principals of the Employer; provided that the following conditions are satisfied:

(1) all terms and conditions of the Swap, the Lease, the Indemnity Agreement, and the Guarantee are at least as favorable to the Plan as those the Plan could obtain in an arm's-length transaction with an unrelated party;

(2) the fair market value of the Condominium will be determined by an independent qualified appraiser at the time the Swap transaction is consummated;

(3) with respect to the Lease, the fair market rental amount has been determined by an independent qualified appraiser, and will never be below the initial fair market annual rental amount of $75,000;

(4) the Condominium will be appraised by an independent qualified appraiser each time that the Renewal option (the Renewal) on the Lease is exercised.

(5) the fair market value of the Condominium will at no time exceed 25% of the Plan's total assets;

(6) the Lease is a triple net lease under which the Employer is obligated for all costs of maintenance and repair, and all taxes, insurance, utilities and condominium fees related to the Condominium;

(7) the fees received by the independent fiduciary for serving in such capacity, combined with any other fees derived from the Employer or related parties, will not exceed 1% of his annual income for each fiscal year that he continues to serve in the independent fiduciary capacity with respect to the transactions described herein;

(8) the independent fiduciary evaluated the transactions described herein and deemed them to be administratively feasible, protective and in the interest of the Plan;

(9) the independent fiduciary will monitor the terms and the conditions of the exemption and the Lease throughout its initial term plus the two Renewal terms and will take whatever action is necessary to protect the Plan's rights;

(10) the Plan will bear no costs or expenses with respect to the transactions described herein; and

(11) the Employer will file form 5330 and pay the appropriate excise taxes for the period beginning June 9, 1989, to the date this exemption, if granted, is published in the Federal Register, within ninety (90) days of the publication date.

For a more complete statement of 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 24739/24741.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number).

Radiation Medical Group Inc. Profit Sharing—401(k) Salary Savings Plan (the Original Plan), and Radiology Medical Group, Inc. 401(k) Salary Savings Plan (the New Plan; together, the Plans) Located in San Diego, California

[Prohibited Transaction Exemption 94–54; Exemption Application Nos. D–9343 & D–9344]

Exemption

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 (1) the transfer by the Original Plan of a 57 percent interest (the Interest) in certain real property (the Property), including a 57 percent lessor's interest, to the New Plan; and (2) the leases of the Property (the New Leases) by the Original Plan and the New Plan to Radiology Medical Group, Inc., and Radiation Medical Group, Inc. (together, the Employers), the sponsors of the Plans; provided the following conditions are satisfied:

(A) All terms of the transactions are no less favorable to the Plans than those

which the Plans could obtain in arms-length transactions with unrelated parties;

(B) The interests of the Plans under the New Leases are represented by an independent fiduciary, the Union Bank of San Diego, California (the Fiduciary), which will monitor the Employers' performance of obligations under the New Leases and compliance with the conditions of this exemption, including all actions necessary to enforce such obligations and conditions;

(C) At all times under the New Leases, the Plans receive rent which is no less than the fair market rental value of the Property and which is net of all real estate taxes and costs of repair, maintenance and insurance;

(D) At all times under the New Leases, each Plan's interest in the Property constitutes less than twenty-five percent of the total value of all assets held by the Plan; and

(E) Any extension or renewal of the New Leases beyond the initial terms is expressly approved by the Fiduciary.

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 May 12, 1994 at 59 FR 24736.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Hartford Life Insurance Company (Hartford Life) and Hartford Investment Management Company (HIMCO) Located in Hartford, Connecticut

[Prohibited Transaction Exemption 94–55; Exemption Application Nos. D–9458 and D–9459]

Exemption

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 sales and transfers of assets of employee benefit plans (the Plans) to Hartford Life pursuant to the terms of a synthetic guaranteed investment contract (Synthetic GIC) entered into by the Plan with Hartford Life and HIMCO, provided the following conditions have been met: (a) prior to the execution of such Synthetic GIC, an independent fiduciary of such Plan receives a full and detailed written disclosure of all material features of the Synthetic GIC, including all applicable fees and charges; (b) following receipt of such disclosure, the Plan's independent fiduciary approves in writing the execution of the Synthetic GIC on behalf of the Plan; (c) all fees and charges imposed under such Synthetic GIC are reasonable; (d) each Synthetic GIC will specifically provide for an objective means for determining the fair market value of the securities owned by the Plan pursuant to the Synthetic GIC; (e) Hartford Life will maintain books and records of all transactions which will be subject to annual audit by independent certified public accountants selected by and responsible solely to the Plan; and (f) the Synthetic GIC will be offered only in principal amounts of $50 million or more.

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 May 12, 1994 at 59 FR 24731.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz 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, D.C., this 8th day of July, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–16979 Filed 7–12–94; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–9703]

Proposed Exemptions; Thomas G. Soper, M.D., S.C. Employees' Pension Plan and Trust

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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 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.

Thomas G. Soper, M.D., S.C. Employees' Pension Plan and Trust (the Plan) Located in Evanston, Illinois

[Application No. D–9703]

Proposed Exemption

The Department is considering granting an exemption under the authority of 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 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 cash sale (the Sale) of certain real property (the Property) by the Plan to Thomas E. Soper, a disqualified person with respect to the Plan; provided that (1) the Sale is a one-time transaction for cash; (2) the Plan does not experience any loss nor incur any expenses in the proposed transaction; and (3) the Plan receives as consideration the greater of either the fair market value of the Property as determined by an independent appraiser on the date of the Sale, or receives an amount equal to all the funds expended by the Plan in acquiring and maintaining the Property.

Summary of Facts and Representations

1. The Plan is a defined contribution plan that is designated as a money purchase pension plan. It has one participant, Thomas G. Soper, M.D., and as of December 31, 1993, it had total assets of $355,000. The fiduciaries of the Plan, who have investment discretion, are Thomas G. Soper, M.D. and his wife, Julie Kelly Soper. Dr. Soper and his wife are the parents of Thomas E. Soper, the proposed purchaser of the Property, and are the applicants of the exemption.

The sponsoring employer of the Plan is an Illinois professional corporation, Thomas G. Soper, M.D., S.C., which is engaged in the practice of medical surgery in Evanston, Illinois. It is wholly owned by Thomas G. Soper, M.D., who is its president and sole director.[1]

2. The Property is located at 2428 Grant Street in Evanston, Illinois and is approximately 150 feet in depth and 49.5 feet in width. The improvements on the Property consist of a one and one-half story frame residence with a detached garage at the back of the lot. The residence, which is 76 years old, is in need of extensive repairs. Its kitchen and first floor bathroom are unfinished and unusable. The basement floor has been removed and currently consists of a one-inch gravel base over clay and soil. There is a need for repairs to the walls of the basement because of recent flooding.

Eleanor N. Hall of Cyrus Realtors located in Evanston, Illinois represents that she evaluated the Property with the intent to present the Property for sale and, although she found the Property to be in a good location, amid higher priced houses, and situated on a well landscaped lot, she determined at this time that without a kitchen the Property is unmarketable.

The Property was purchased by the Plan for the consideration of $167,000 on September 5, 1991, from the conservator of the estate of an elderly individual, who had no relationship with respect to the Plan or the participant. During the occupancy of the previous owner, the Property had deteriorated so that by September 1991 the Property was experiencing foundation and structural faults, unsafe wiring, and roofing defects. The Plan purchased the Property with the understanding that because of its desirous location it could be rehabilitated and resold for a substantial gain. The Plan has made no attempt to find tenants for the Property because of the dilapidated condition of the Property; however, rehabilitation of the Property was commenced upon its purchase by the Plan. Although approximately 85 percent of the repairs are completed, delays have occurred because of the need for engineering studies and the procurement of permits from regulatory agencies of the city or county, and because of the additional structural damage to the Property from a broken water main during January 1994.

The applicants represent that from September 5, 1991, to June 6, 1994, the Plan incurred expenses of $34,126 from improving and maintaining the Property. These expenses included (a) Homeowners Insurance, totalling $1,276 for the years 1991 through 1993; (b) Real Estate taxes, totalling $15,375 for the years 1991 through 1993; (c) Drywall in October 1991, totalling $5,150; (d) Landscape expenses, totalling $4,900; (e) Kitchen Cabinets (not installed), totalling $915; and (f) Electrical expenses, totalling $7,380.

The Property was appraised by Richard Anselmo, Certified General Appraiser, State Certification #153–000832, of Bulthuis Realty Consultants, Oakbrook, Illinois, who determined the fair market value of the Property to be $215,000, as of May 28, 1994.

3. Cognizant that the Property's fair market value represents approximately 60 percent of the total assets of the Plan,[2] the applicants propose selling the Property to their son for cash as soon as possible following the issuance of the requested exemption. Their son, Thomas E. Soper, is unmarried and has recently returned from living in California. He is presently residing with

[1] Since Dr. Soper is the sole shareholder of the sponsor of the Plan and the only participant of the Plan, there is no jurisdiction under Title I of the Act, pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[2] In this proposed exemption the Department expresses no opinion with respect to the Plan's lack of diversification of investments caused by the acquisition and holding of the Property.

his parents and intends to finish rehabilitating the Property.

Thomas G. Soper, M.D., the sole participant of the Plan is planning to retire from his practice by the end of 1994 or early in 1995. His primary source of retirement income will be from the assets of the Plan and a profit sharing plan, also sponsored by his professional corporation.

The applicants represent that it is in the best interests of the Plan and its sole participant to sell the Property in its present condition as soon as possible in order to avoid additional expenses to the Plan and to generate liquid assets that can produce earnings for the distribution of benefits to the participant upon his contemplated retirement.

4. In summary, the applicants represent that the proposed transaction will satisfy the criteria of section 4975(c)(2) of the Code because (a) the Sale of the Property involves a one-time transaction for cash; (b) the Plan will not incur any expenses incidental to the Sale; (c) the Plan will receive as consideration for the Sale the greater of either the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser, or will receive all of the funds expended by the Plan in obtaining and maintaining the Property; (d) the Sale will permit the Plan to reinvest illiquid assets into income producing, liquid assets; and (e) the Plan will avoid the expenses and risks involved in retaining and developing the Property.

NOTICE TO INTERESTED PERSONS: Since the applicants and their son are the only persons affected by the proposed transaction, there is no need to distribute notice to interested persons. Comments are due 30 days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver 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 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 8th day of July, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–16980 Filed 7–12–94; 8:45 am]

BILLING CODE 4510–29–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 94–2B CARP–DD]

Consolidation of 1992, 1993 and 1994 Digital Audio Recording Distribution Proceedings

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of consolidation of proceedings, royalty distribution, and public meeting.

SUMMARY: The Copyright Office is granting a motion to consolidate the 1992, 1993, and 1994 digital audio recording (DART) distribution proceedings which will begin in 1995. In addition, the Office will make distribution of the 1992 and 1993 Nonfeatured Musicians and Nonfeatured Vocalists DART subfunds in July. The Office will hold a public meeting to discuss the best evidence for the distribution of DART royalties in September.

DATES: (1) The distribution of the royalties in the 1992 and 1993 Nonfeatured Musicians and Nonfeatured Vocalists DART subfunds will take place July 28, 1994. (2) The public meeting to discuss best evidence for distribution of royalties will take place 10 a.m., Tuesday, September 27, 1994.

ADDRESSES: The public meeting will take place at the temporary CARP hearing room, Suite 921, 1825 Connecticut Avenue, N.W., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Acting General Counsel, U.S. Copyright Office, Department 17, Library of Congress, Washington, DC 20540. Telephone (202) 707–8380.

SUPPLEMENTARY INFORMATION:

I. Background

On December 17, 1993, Congress passed the Copyright Royalty Tribunal Reform Act of 1993. This legislation dissolved the Tribunal and established a new system of copyright arbitration royalty panels (CARPs) to be supported by the Library of Congress and the Copyright Office.

The first proceeding to be initiated under the new CARP system was the distribution of the 1992 and the 1993 digital audio recording technology (DART) royalties. The 1992 DART distribution proceeding was begun by the Tribunal but was suspended when the Tribunal was abolished, and needed to be started anew. The 1993 DART distribution was begun by the Copyright Office under the new authority conferred by the Copyright Royalty Tribunal Reform Act of 1993. On March 1, 1994, 59 FR 9773, we began the process of distributing DART royalties by asking the claimants to the 1992 and 1993 DART funds for comments on the following questions:

(a) Do any controversies exist concerning the distribution of 1992 and/or 1993 DART royalties?

(b) If controversies do exist, which subfunds do they exist in?

(c) If settlements have been reached, which parties have reached settlement and which have not?

(d) Do the claimants believe it would be advisable to consolidate the 1992 DART proceeding with the 1993 DART proceeding?

In addition, in the March 1, 1994, notice and in a subsequent notice appearing May 16, 1994, 59 FR 25506, the Library of Congress and the Copyright Office established the initial procedural dates that would apply to the 1992 and 1993 DART proceedings, as follows:

June 10, 1994—comments from claimants due on whether controversies exist in the distribution of 1992 and 1993 DART funds, and whether the 1992 and 1993 DART distribution proceedings should be consolidated.

June 15, 1994—precontroversy motions, and/or objections to any listed arbitrators due from claimants who will be participating in the 1992 and/or 1993 DART distribution proceedings.

June 30, 1994—declaration by the Librarian of Congress to be made as to whether any controversies exist in the distribution of 1992 and 1993 DART royalties, and, if they do, a declaring of the initiation of CARP proceedings.

August 1, 1994—authorization by the Copyright Office of the distribution of any royalties found not to be in controversy.

II. The Commentators

We received comments from the following claimants:

The Alliance of Artists and Recording Companies (AARC)
Ymistye L. White
Alicia Carolyn Evelyn
Eugene (Lambchops) Curry
James Cannings
Gear Publishing Company
Hideout Productions on behalf of Punch Enterprises, Inc. and Bob Seger
Sword and Stone Publishing, Inc.
Bopp du Wopp, Inc.
Jointly, the independent administrator of the Nonfeatured Musicians and the Nonfeatured Vocalists subfund; the American Federation of Musicians (AFM); the American Federation of Television and Radio Artists (AFTRA); and the Recording Industry Association of America (RIAA).
Jointly, AARC, American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI); Copyright Management, Inc. (CMI), Gospel Music Coalition (GOSPEL); The Harry Fox Agency, Inc. (HFA); SESAC, Inc. (SESAC), and the Songwriters Guild of America (SGA).
Jointly, ASCAP, BMI, CMI, GOSPEL, HFA, SESAC, and the SGA.

III. Motion to Consolidate and Stay Procedural Dates

The comments indicated that, while many settlements were reached, there still existed some unresolved controversies in each of the subfunds. Rather than requesting the immediate initiation of a CARP proceeding to resolve these controversies, a joint motion was filed by AARC, ASCAP, BMI, CMI, GOSPEL, HFA, SESAC, and SGA requesting that the Librarian of Congress and the Copyright Office consolidate the 1992 and the 1993 DART distribution proceedings with the 1994 DART distribution proceedings that will start next year, and defer all consideration of DART distributions until 1995.

As a consequence of their motion to consolidate, the joint commentators also requested that the initial DART procedural dates of June 15 (precontroversy motions and objections), June 30 (initiation of proceedings), and August 1 (authorization of distributions) be stayed until after the 1994 claims are filed in 1995.

A. Justification of Motion to Consolidate and Stay of Procedural Dates

In support of their motion to consolidate, the joint commentators noted that the 1992 and the 1993 DART funds, which are the first funds to be collected under the Audio Home Recording Act that took effect on October 28, 1992, are quite small: a little over $100,000 for 1992, and less than $500,000 for 1993. They anticipate that, because the DART fund is new, many issues of first impression will have to be resolved, but that the costs of such action will be such as to consume most, if not all, of the fund. The joint commentators observed that the costs borne by the copyright owners in a DART proceeding are not only their own costs, but the costs of the Library of Congress, the Copyright Office, and the arbitrators. In the interest of economy, therefore, the joint commentators requested that the 1992 and 1993 distribution proceedings be consolidated with the 1994 proceeding.

In addition, the joint commentators noted that the Library of Congress and the Copyright Office have endeavored to adopt regulations to govern the new CARP proceedings, but that the current regulations are interim rules. Comments on the interim rules were due June 15, 1994, and reply comments are due July 15, 1994. The joint commentators would prefer that a DART proceeding operate under the final rules that result from these latest rounds of comments, rather than proceed under the interim rules.

Last, the joint commentators stated that they will endeavor to use the time between now and 1995 to gather the best information and data relevant to a DART distribution proceeding, and to continue to work for more settlements in each of the subfunds. To the extent that more settlements are reached, fewer controversies will need to be brought before the arbitrators, and fewer royalties will have to be spent on the expense of a CARP proceeding.

B. Grant of Motion to Stay Procedural Dates and Establishment of Comment Period

On June 21, 1994, the Library of Congress and the Copyright Office issued an Order finding good cause to grant the motion to stay the procedural dates of June 15, June 30, and August 1, established in this proceeding.

Concerning the motion to consolidate the 1992, 1993, and 1994 distribution proceedings, the Order gave those persons who did not join in the joint motion until June 24, 1994, to respond to it, as provided by § 251.45 of the Copyright Office rules.[1]

C. Responses to the Motion to Consolidate Proceedings

Responses to the joint motion to consolidate proceedings were filed by James Cannings, Eugene Curry, and Alicia Carolyn Evelyn.

Mr. Cannings agreed with the consolidation of the 1992, 1993 and 1994 proceedings provided that the distribution methodology proposed by Bopp du Wopp, Inc. is considered as one possible method by the claimants. Mr. Cannings urged diligent and good faith efforts at settlement before 1995.

Mr. Curry questioned whether the proposed consolidation of 1992, 1993 and 1994 would lead to another consolidation next year, then the year after that, ad infinitum. Mr. Curry would agree to future years being consolidated, i.e., 1994, 1995, and 1996, but wanted an immediate distribution of 1992 and 1993 moneys this August.

Ms. Evelyn stated that she would object to the motion to consolidate so long as public performance royalty issues she has raised with BMI and ASCAP remain unresolved. She joined with Mr. Cannings in support of Bopp du Wopp, Inc.'s proposed distribution methodology.

[1] Section 251.45 provides that the comment period for precontroversy motions is two weeks from the filing of the motion.

IV. Grant of Motion to Consolidate

The Library of Congress and the Copyright Office agree with the arguments made by the joint commentators and hereby grant the motion to consolidate the 1992, 1993, and 1994 DART royalty distribution proceedings into one proceeding that will begin in 1995.

As we discussed in our notice of March 1, 1994, the Audio Home Recording Act established certain statutory deadlines for the commencement of DART distribution proceedings which, as the agency delegated the responsibility, we were prepared to meet. However, as observed by the Administrative Conference of the United States, 1 C.F.R. 305.78–3, there are special circumstances when the meeting of a statutory deadline would not serve the public interest. Here, the majority of the claimants themselves have asked for a waiving of the statutory dates so that they might realize the economies that would accrue from a consolidation of proceedings, and so that they might continue settlement talks that could potentially avoid the cost of a CARP proceeding altogether. Under these circumstances, to initiate a CARP proceeding immediately will only serve to spend the claimants' royalties needlessly, and will likely result in the claimants receiving fewer royalties today than if they waited until 1995.[2] In addition, we see no financial harm in waiting until 1995. The claimants' royalties will remain invested in United States Treasury securities, and will continue to earn interest.

The objection of Mr. Curry to consolidation is based on a concern that consolidations will happen every year, and no moneys will ever be distributed. We do not see that occurring. Our goal, and, we believe that of the moving parties, is economy, not delay. The moving parties do not want to see their royalties remaining with the government and neither do we.

The objection of Ms. Evelyn is tied to her other issues with ASCAP and BMI, and are not relevant to our consideration here.

As stated earlier, in our Order, dated June 21, 1994, we granted the joint commentators' motion to stay all previously announced procedural dates intended to govern a 1992 and 1993 DART royalty distribution proceeding.[3] Consistent with our ruling today to consolidate the 1992, 1993, and 1994 proceedings, new procedural dates will be established in 1995, in accordance with our yearly statutory obligation under Chapter 10 of the Copyright Code to ascertain DART controversies and to initiate DART proceedings.

V. Inquiry Into Best Evidence

The concerns expressed by the commentators about the potential for the costs of a DART proceeding to use up most or all of the DART royalties available for distribution are valid, and are very much shared by the Library and the Copyright Office. Two scenarios especially concern us. One, there is the possibility of holding extensive hearings for controversies where the amounts in dispute are ultimately determined to be quite small. Two, even if the amounts in controversy are sizable, there is the possibility of holding months-long hearings about the validity of the evidence offered by the parties, which again would ultimately use up the bulk of the royalties in the DART funds, and the time allotted for arbitration. This is especially likely because DART proceedings have never been held, and there is no precedent concerning what is the most relevant evidence. We note that at a similar stage in its regulatory history, the issue of the best evidence for distributing jukebox royalties was the subject of a full evidentiary hearing at the Copyright Royalty Tribunal, but, nevertheless, resulted in the Tribunal deciding that no distribution determination could be reached without further efforts at producing better evidence.[4] This is a situation we should like to avoid.

Consequently, the Library of Congress and the Copyright Office will hold a public meeting at 10 a.m., Tuesday, September 27, 1994 at the temporary CARP hearing room, Suite 921, 1825 Connecticut Avenue, N.W., Washington, D.C. 20009. The purpose of the meeting is to discuss what would be the best evidence for distribution of the Sound Recordings Fund and the Musical Works Fund.

We note that section 1006(c) of the Copyright Code states that the allocation of the Sound Recordings Fund shall be made according to the extent sound recordings were distributed, and that the allocation of the Musical Works Fund shall be made according to the extent musical works were distributed or disseminated to the public in transmissions. We should like, therefore, to know:

(a) Do industry data exist, or can industry data be produced, that will demonstrate validly the distribution of sound recordings in the United States?

(b) Do industry data exist, or can industry data be produced, that will demonstrate validly the dissemination of musical works to the public in transmissions in the United States?

(c) How should "distributed" be defined given the practice of allowable returns? Should the arbitrators employ the rule adopted by the Copyright Office with respect to section 115?[5]

(d) If methodologies exist for the production of data relating to (a) and (b), what are the drawbacks of such methodologies?

(e) If methodologies exist for the production of data relating to (a) and (b), would the data cover all distributions and all public disseminations so that even the smallest or most specialized claimant can be compared mathematically to the larger claimants?

(f) If the methodologies cannot cover the smaller claimants, what measurements can be proposed to cover them?

(g) If conflicting methodologies exist, how do the parties propose to resolve the conflicts?

We emphasize that we are not asking these questions to decide distribution issues. Distribution issues are properly for the CARP arbitrators. But if we can in any way help to focus and sharpen the proceedings, the savings in time and expense before a CARP panel will far outweigh the cost of this one public meeting. The public meeting will give the parties an opportunity to explore the positions of each claimant, facilitate

[2] When confronted with the question of whether to nullify the Copyright Royalty Tribunal's cable rate adjustment because the Tribunal missed its statutory deadline by 28 days, the Court of Appeals for the District of Columbia stated that "Statutes that, for guidance of a government official's discharge of duties, propose to secure order, system, and dispatch in proceedings, are usually construed as directory, whether or not worded in the imperative, especially when the alternative is harshness or absurdity." The Court also noted that "agencies rigidly tied to a deadline * * * would become Penelopes, forever engaged in unraveling the webs they wove." *National Cable Television Association v. Copyright Royalty Tribunal*, 724 F. 2d 176, 189, fn. 23 (D.C. Cir. 1983).

[3] As discussed below, in part VI, we are making a full distribution of the Nonfeatured Musicians Subfund and the Nonfeatured Vocalists Subfund on July 28, 1994. *See*, discussion below, at VI.

[4] "The Tribunal considers that the record of the current proceeding is insufficient as a basis on which we can make a distribution of the 1979 jukebox royalties. * * * The Tribunal, therefore, has elected not to make a distribution in this proceeding." *1979 Jukebox Royalty Distribution*, 46 FR 58139, 58142 (Nov. 30, 1981).

[5] With respect to the 17 U.S.C. 115 mechanical license, "distributed" is defined as occurring when "the person exercising the compulsory license has voluntarily and permanently parted" with possession of the phonorecord. The Copyright Office has taken the position that permanent distribution of phonorecords occurs one year from the date that the compulsory licensee parts with possession, or at the time when a sale of the phonorecord is recognized in accordance with generally accepted accounting principles, or according to the IRS' practices, whichever of these events comes earlier. 42 FR 64889, 64892 (Dec. 29, 1977).

concentrating on solving the evidentiary problems, and reveal what further steps need to be taken. A public record of the meeting will be made for those who do not attend, and for the benefit of the CARP panel, if one is ultimately convened.

VI. The Nonfeatured Musicians and the Nonfeatured Vocalists Subfunds

A. Background—1993

The Audio Home Recording Act established two funds: the Sound Recordings Fund and the Musical Works Fund. Within the Sound Recordings Fund, the Act further established four subfunds: the Copyright Owners Subfund, the Featured Artists Subfund, the Nonfeatured Musicians Subfund, and the Nonfeatured Vocalists Subfund.

With regard to the Nonfeatured Musicians Subfund and the Nonfeatured Vocalists Subfund, the Act outlined certain specific procedures. It required that "2⅔ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States." Similarly, "1⅓ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation [of] Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States." 17 U.S.C. 1006.

In 1993, the Copyright Royalty Tribunal adopted a regulation, ultimately reissued by the Library of Congress and the Copyright Office when the Tribunal was abolished, that required the independent administrator to give notice to the government of his or her selection by March 31 of each year. 37 C.F.R. 311.4; 58 FR 53822 (1993).

In the same rulemaking, the Tribunal determined that it did not have the jurisdiction to decide controversies within the two subfunds that were administered by an independent administrator. The Tribunal reasoned that, according to the wording of section 1006(a), its authority over the distribution of royalties extended only to "interested copyright parties" and that nonfeatured performers, whether musicians or vocalists, were not defined under the Audio Home Recording Act as "interested copyright parties." 58 FR 53822, 53824 (Oct. 18, 1993).

Therefore, the Tribunal concluded that its role in handling the moneys for the two nonfeatured performer subfunds was simply a ministerial task of distributing the royalties to the independent administrator when a distribution was ready to be made. *Id.*

B. Background—1994

After the Tribunal's abolition, the Copyright Office began to receive claims for 1993 DART royalties during January-February, 1994. One claimant, Eugene Curry, filed a claim for the Nonfeatured Musicians Subfund. Subsequently, the Office was informed that Edward Peters had been appointed the independent administrator for both the Nonfeatured Musicians Subfund and the Nonfeatured Vocalists Subfund.

The Copyright Office sent a letter to Mr. Curry and Mr. Peters asking three questions: (a) who were the interested copyright parties that participated in the selection of the independent administrator?; (b) is there any controversy between Mr. Curry and Mr. Peters about the distribution of Nonfeatured Musicians Subfund?; and (c) if there is a controversy, how would Mr. Curry and Mr. Peters recommend the resolution of the controversy? Letter, dated May 4, 1994.

Mr. Curry responded that there was a controversy between him and Mr. Peters on the distribution of the subfund.

Mr. Peters responded that he was selected by RIAA and AFM[6]; that, according to the Copyright Code and Tribunal precedent, the Copyright Office has no authority to resolve disputes in the nonfeatured subfunds; that, because the Copyright Office has no authority, Mr. Curry should not have filed a claim with the Copyright Office nor should the Office have processed his claim; that Mr. Curry will be treated properly by Mr. Peters; and the fact of his non-union membership will have no relevance whatever in the ultimate distribution of the subfund.

Separately, the Copyright Office received a joint comment from Mr. Peters, AFM, AFTRA, and the RIAA arguing in greater detail that the Audio Home Recording Act and the Tribunal's decision in 1993 support the conclusion that the independent administrator is to receive the allocated royalties for the two nonfeatured performers subfunds directly, and is not subject to the authority of the Copyright Office or the CARP panel in resolving disputes in those subfunds.

C. Discussion

The Library of Congress and the Copyright Office have reviewed the Audio Home Recording Act and the Tribunal's 1993 decision, and agree with the joint commentators, AFM, AFTRA, RIAA and Mr. Peters, that the independent administrator is to receive the royalties from the two nonfeatured performers subfunds directly from the Copyright Office, and that disputes as to his (or her) distribution of those funds are not subject to the jurisdiction of a CARP panel.

Our purpose in sending the May 4 letter to Mr. Curry and Mr. Peters was to facilitate a settlement. The provisions of the Audio Home Recording Act are unique among other provisions governing statutory royalties in that they open up the possibility of a dispute in a royalty fund without offering an administrative remedy. How to handle such a dispute was not a question that was faced by the Tribunal in 1993, because in that year there were no claims filed at all in the nonfeatured performers subfunds. This year, Mr. Curry's claim, and his subsequent notice that he is in controversy, presents the issue foursquare.

Recognizing the plain meaning of the statute, we agree that the royalties in the two nonfeatured performers subfunds are to be distributed directly to the independent administrator. We also recognize that claimants to those two subfunds do not file claims with the Copyright Office. They need to contact the independent administrator directly.

But we believe there is a function for the Copyright Office to perform. Each year, to the extent that the Copyright Office receives expressions of interest to receive royalties from those two subfunds, we will forward the names to the independent administrator.[7] In

[6] RIAA, as a representative of copyright owners in sound recordings, is entitled to participate in the selection of the independent administrator. Other claimants to the Copyright Owners Subfund of the Sound Recordings Fund are also entitled to participate.

[7] This year, in addition to Mr. Curry, James Cannings filed a claim for the Nonfeatured Musicians Subfund and the Nonfeatured Vocalists Subfund. Mr. Cannings' claims were filed after the February 28, 1994 deadline, and would have been

Continued

addition, the Copyright Office will maintain a public file that will consist of (a) the names of those expressing interest in the subfunds; (b) the notice of the independent administrator; (c) any correspondence concerning the two subfunds; and (d) any notification of the final disposition of any dispute within the subfunds. The notification is not required, but is being requested to complete the public record. It is also noted that we are not asking for a notification of the disposition of all moneys in the subfunds, just those is dispute. We recognize and will continue the Tribunal's policy of not inquiring into the distribution of *settled* claims.

D. Distribution Notice

In light of the above discussion, we are ordering a full distribution of the royalties available in the 1992 and 1993 Nonfeatured Musicians and Nonfeatured Vocalists Subfunds to Mr. Edward Peters, the independent administrator, on July 28, 1994. This distribution will constitute the final distribution in those subfunds, except (a) in the event that there are any late payments, a subsequent distribution will be made to the independent administrator that represents those subfunds' share of the late payment; and (b) in the event that any refund is ultimately found to be required, the independent administrator will need to repay the Office the subfunds' share of the refund.

Dated: July 7, 1994.

Barbara Ringer,

Acting Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 94–16963 Filed 7–12–94; 8:45 am]

BILLING CODE 1410–09–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting; Change in Program Panel Meeting

AGENCY: National Endowment for the Humanities.

The meeting of the Humanities Panel scheduled for July 12, 1994, and published in the **Federal Register** on June 30, 1994 at page 33791 has been changed to July 15, 1994, in room M–07 from 8:30 a.m. to 3 p.m. The meeting will review applications submitted to Humanities Projects in Media program during the July 8, 1994 deadline concerning the Request for Proposals on the National Conversation.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 94–16877 Filed 7–12–94; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel In Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing.

Date and Time: August 2 and 3, 1994, 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150 and 1120, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Richard Hirsh, Deputy Division Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Telephone: (703) 306–1970.

Purpose of Meeting: To provide advice and recommendations concerning Metacenter Regional Alliances proposals submitted to NSF for financial support.

Agenda: To review and evaluate Metacenter Regional Alliances proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16890 Filed 7–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date and Time: July 26–29, 1994; 8:30 AM–5:00 PM.

Place: Rooms 310 (T), 370 (T–R), 365 (T–W), 380 (T–F), and 390 (T–R), Stafford Place, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Sciences Research Section (OSRS) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 8, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16964 Filed 7–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Microelectronic Information Processing Systems

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Microelectronic Information Processing Systems.

Date and Time: August 4, 1994 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Conference Room: 375.

Type of Meeting: Closed.

Contact Person: Dr. Michael Foster, Program Director, Microelectronic Information Processing Systems Division, National Science Foundation, Room 1155, Telephone Number: 703–306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted in the area of rapid prototyping.

Reason for Closing: The proposals being reviewed include information of a confidential nature including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 7, 1994.

M. R. Winkler,

Committee Management Officer.

[FR Doc. 94–16892 Filed 7–12–94; 8:45 am]

BILLING CODE 7555–01–M

returned as untimely filed if they were claims subject to the Copyright Office's jurisdiction. However, in light of our ruling today, the statutory deadline in 17 U.S.C. 1007(a)(1) does not apply to claims beyond the Copyright Office's jurisdiction. Therefore, his claims are also being forwarded to the independent administrator for resolution.

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Polar Programs (#1209).

Date and Time: July 28–29, 1994; 8 a.m. to 5 p.m. each day.

Place: Room 755, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Guy G. Guthridge, Polar Programs, NSF, 4201 Wilson Blvd., Arlington, Va. 22230, telephone: 703 306–1031.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Antarctic Artists & Writers Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16891 Filed 7–12–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Date and Time: August 03, 1994; 7:30 p.m. to 9:00 p.m., August 04, 1994; 8:30 a.m. to 5:00 p.m., August 05, 1994; 8:30 a.m. to 5:00 p.m., August 06, 1994; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Terry Woodin, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1667.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Collaborative for Excellence in Teacher Preparation (CETP) Program Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16893 Filed 7–12–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–529]

Arizona Public Service Company; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–51 issued to Arizona Public Service Company (the licensee) for operation of the Palo Verde Nuclear Generating Station, Unit 2 located in Maricopa County, Arizona.

The proposed amendment would modify Technical Specification Figure 3.2–1, Reactor Coolant Cold Leg Temperature Vs. Core Power Level. Specifically, the minimum cold leg temperature for core power levels between 90 percent and 100 percent would be changed to 552°F, (which is a reduction of 10°F from the previous TS requirement). This TS change permits reactor operation at full power with a lower reactor coolant temperature to minimize potential steam generator tube degradation.

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:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. Peak pressure events were reanalyzed and LOCA events were partially reanalyzed, and these reanalyses confirmed that the existing safety analysis for cycle 5 for PVNGS Unit 2 remains valid for a 10°F reduction in RCS temperature. The Unit 2 LOCA and non-LOCA reanalyses were performed to account for additional steam generator tube plugging (1100 total plugged tubes with no restriction on the number of plugged tubes in each steam generator for LOCA analysis, and 2000 total plugged tubes with a maximum of 1000 plugged tubes in each steam generator for non-LOCA analysis).

2. The proposed change does not create the possibility of a new or different kind of accident from any other previously evaluated.

This amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The reanalyses performed demonstrated that the current licensing basis analyses results remain valid with a 10°F reduction in RCS temperature, and that the safety system settings remain unchanged.

3. The proposed changes do not involve a significant reduction in a margin of safety.

This amendment request will not involve a significant reduction in a margin of safety. There is no reduction in the margin of safety since the changes apply only to the reactor coolant cold leg temperature, the safety analyses have been reevaluated (and reperformed where necessary) using the new temperature, and the results remain valid. All other safety limits and safety system settings remain unchanged; therefore, there is no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days 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, 11545 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 August 12, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004. 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 on 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 Theodore R. Quay, Director, Project Directorate IV–2: 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 Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 1, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 7th day of July 1994.

For the Nuclear Regulatory Commission.

Linh N. Tran,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16942 Filed 7–12–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation (GPUN, the licensee) for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would delete Technical Specification Section 2.3.0 and its associated bases. The proposed amendment removes the limiting safety system setting for a high recirculation flow reactor scram based on a maximum attainable recirculation flow analysis.

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.

By August 12, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. 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 a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in 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.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: 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 Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037 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).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 24, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 6th day of July 1994.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16943 Filed 7–12–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Notice of Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Tennessee Valley Authority (the licensee) to withdraw its November 18, 1992 application for proposed amendments to Facility Operating License Nos. DPR–77 and DPR–79 for the Sequoyah Nuclear Plant, Units 1 and 2, located in Soddy Daisy, Tennessee.

The proposed changes would have modified the facility technical specifications pertaining to alternate steam generator tube plugging criteria that was designed to take into account the reinforcing effect that the steam generator tubesheet has on the external surface of expanded steam generator tubes referred to as Westinghouse Explosive Tube Expansion (WEXTEX) region. The new criteria was designed to reduce the need for repairing or plugging steam generator tubes having indications that exceed the current technical specification depth-based plugging limit.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 3, 1993 (58 FR 7006). However, by letter dated June 28, 1994, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 18, 1992 (which was supplemented by letter dated January 8, 1993), and the licensee's letter dated June 28, 1994, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland this 5th day of July 1994.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16944 Filed 7–12–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Washington Public Power Supply System (the licensee) for an amendment to Facility Operating License No. NPF–21 issued to the licensee for operation of the Washington Nuclear Project No. 2, located in Benton County, Washington.

The purpose of the licensee's amendment request was to revise the operating license to permanently utilize the present reactor water cleanup system design without postulation of a high-energy line break at the terminal end of valve RWCU–FCV–33.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated July 7, 1994.

By August 12, 1994, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or 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.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to M.H. Philips, Jr., Esq., Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1993, and (2) the Commission's letter to the licensee dated July 7, 1994.

These documents 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 Richland Public Library, 955 Northgate Street, Richland, Washington 99352. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 7th day of July 1994.

For the Nuclear Regulatory Commission.

James W. Clifford,

Acting Project Director, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16945 Filed 7–12–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Updated Statistical Definitions of Metropolitan Areas (MAs)

AGENCY: Statistical Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

ACTION: Updated statistical definitions of Metropolitan Areas as of July 1, 1994.

SUMMARY: Under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504) and 31 U.S.C. 1104(d) and E.O. No. 10253 (June 11, 1951), the Office of Management and Budget (OMB) defines Metropolitan Areas (MAs) for statistical purposes in accordance with a set of standards

published in the **Federal Register** (55 FR 12154–12160, March 30, 1990).

On July 1, 1994, OMB updated the MA definitions in OMB Bulletin No. 94–01. One new metropolitan statistical area (MSA) was defined based on the standards and the 1992 official population estimates. Hattiesburg, Mississippi MSA (FIPS Code 3285) was defined as of July 1, 1994, comprising Forrest County and Lamar County.

The complete announcement presenting all MA definitions can be obtained through the National Technical Information Service (NTIS) by calling (703) 487–4650 and ordering Accession Number PB94–165–628.

For further information on the statistical uses of MA definitions please call Marie E. Gonzalez (202) 395–7313. For information concerning the use of MA definitions in a particular Federal agency program, please contact the sponsoring agency directly.

Leon E. Panetta,

Director.

[FR Doc. 94–16972 Filed 7–12–94; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Before Commissioners: Edward J. Gleiman, Chairman; W. H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Strang, Nebraska 68444 (Ruth E. Hobbs, Petitioner), Docket No. A94–13.

Issued July 7, 1994.

Docket Number: A94–13
Name of Affected Post Office: Strang, Nebraska 68444
Name(s) of Petitioner(s): Ruth E. Hobbs
Type of Determination: Consolidation
Date of Filing of Appeal Papers: July 1, 1994
Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by July 18, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

July 1, 1994—Filing of Appeal letter
July 7 , 1994—Commission Notice and Order of Filing of Appeal
July 26, 1994—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
August 5, 1994—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)]
August 25, 1994—Postal Service's Answering Brief [*see* 39 CFR 3001.115(c)]
September 9, 1994—Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)]
September 16, 1994—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116]
October 28, 1994—Expiration of the Commission's 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)]

[FR Doc. 94–16894 Filed 7–12–94; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34323; File No. SR–CBOE–94–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Solicited Transactions

July 6, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 3, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new Rule 6.9 that would regulate the execution of "solicited orders," as that term is defined in the rule; would set forth specific priority principles applicable to such orders; and would restrict trading by members and associated persons possessing knowledge of imminent undisclosed solicited transactions.

The text of the proposal is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose Of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose Of, and Statutory Basis For, the Proposed Rule Change

The purpose of the proposed rule change is to regulate the execution of "solicited" transactions in options, *i.e.*, options transactions having terms that are pre-negotiated prior to the time the orders comprising the transaction are exposed to the trading crowd on the CBOE floor. The proposed rule change also restricts trading in any class of an option, as well as trading in the underlying security or any "related instrument," by CBOE members and their associated persons who have knowledge of an imminent solicited transaction in options of that class. This

[1] 15 U.S.C. 78s(b)(1).

prohibition applies until all terms are disclosed to the trading crowd or until execution of the solicited transaction cannot reasonably be considered imminent given the passage of time since the transaction was agreed upon.

The Exchange believes that it is appropriate to permit solicitation between potential buyers and potential sellers of options in advance of the time they send actual orders to the trading crowd on the Exchange. The Exchange states that complex options orders, such as spreads, straddles and combination orders, as well as stock-option orders, often require the "advance shopping" that is characteristic of a solicited transaction. The Exchange believes that such interactions between buyers and sellers and the resulting solicited transactions can enhance liquidity and depth at the CBOE by bringing orders to the floor that might otherwise be difficult to effect.

Nevertheless, if the orders that comprise a solicited transaction are not suitably exposed to the order interaction process on the CBOE floor, the execution of such orders would not be consistent with CBOE rules designed to promote order interaction in an open-outcry auction. For example, Rule 6.43 requires bids and offers to be made at the post by public outcry, and Rule 6.74 imposes specific order exposure requirements on floor brokers seeking to cross buy orders with sell orders. Solicited transactions by definition entail negotiation, and if the orders that comprise a solicited transaction are not adequately exposed to the floor auction, the crowd cannot have sufficient time to digest and react to those orders' terms. The pre-negotiation inherent in the solicitation process thus can enable the parties to a solicited transaction to preempt the crowd to an execution at the pre-negotiated price.

Proposed Rule 6.9 is intended to preserve the right to solicit orders in advance of submitting a proposed trade to the crowd, while at the same time assuring that original orders that are the subject of a solicitation are exposed to the auction market in a meaningful way. For instance, the proposed rule change would require a member representing an original order that is the subject of a solicitation to disclose the terms of the original order to the crowd before the original order can be executed. CBOE believes that such disclosure would eliminate the unfairness that can be associated with pre-negotiated transactions and would subject the order that is the subject of the solicitation to full auction interaction with other orders in the crowd.

To promote disclosure at the inception of a solicitation period, rather than later, and to encourage solicited persons to bid or offer at prices that improve the current market, CBOE's rule change would establish a series of priority principles for solicited transactions. Priority would be accorded depending on whether the original order is disclosed throughout the solicitation period; whether the solicited order improves the best bid or offer in the crowd; and whether the solicited order matches the original order's limit. Thus, when the original order is disclosed in advance of the solicitation and the solicited order both matches the disclosed original order's limit and improves the market, the solicited order will have priority over other orders in the crowd and may trade with the original order at the improved bid or offered price, subject to the customer limit order book priorities set forth in Rule 6.45. When a solicited order does not match the original order's limit and does not improve the market, however, it will not have priority over other bids and offers represented in the crowd even if the original order was disclosed to the crowd for the full solicitation period. A responsive solicited order will not have priority to trade with the original order even if the solicited order improves the market; instead, in that instance, others in the crowd may trade ahead of the solicited person at the improved price.

In addition to requiring disclosure of original orders and clarifying the priority principles applicable to solicited transactions, proposed Rule 6.9(e) would make it prohibited conduct, inconsistent with just and equitable principles of trade, for any member or associated person who has knowledge of all the material terms of an original order and a solicited order that matches the original order's price, to enter an order to buy or sell an option of the same class as any option that is the subject of the solicitation prior to the time the original order's terms are disclosed to the crowd or the execution of the solicited transaction can no longer reasonably be considered imminent. This prohibition would extend to orders to buy or sell the underlying security or any "related instrument," as that term is defined in the Rule. The CBOE believes that these prophylactic requirements are necessary to prevent members and associated persons from using undisclosed information about imminent solicited option transactions to trade the relevant option or any closely-related instrument in advance of persons represented in the relevant options crowd.

The CBOE believes that proposed Rule 6.9 will improve the CBOE auction by clarifying the requirements applicable to solicited transactions and by enabling the Exchange to initiate enforcement proceedings in appropriate cases under specific rules. The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general and section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trades and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change 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 Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–94–15 and should be submitted by August 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16951 Filed 7–12–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34326; File No. SR–MCC–94–08]

Self-Regulatory Organizations; Midwest Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Waive Certain Fees

July 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 30, 1994, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MCC–94–08) as described in Items I, II, and III below, which Items have been prepared primarily by MCC. 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 purpose of the proposed rule change is to continue to waive through September 30, 1994, (1) Trade recording fees for trades in Chicago Stock Exchange's Chicago Basket ("CXM") and (2) secondary account maintenance fees for market-maker accounts opened for trading in the CXM.[2]

[2] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release Nos. 33156 (November 4, 1993), 58 FR 60076 [File No. SR–MCC–93–06] (waiver of fees through December 31, 1993); 33601 (February 8, 1994), 59 FR 7275 [File No. SR–MCC–93–10] (waiver of fees through March 31, 1994); and 33828 (March 28, 1994), 59 FR 15956 [File No. SR–MCC–94–05] (waiver of fees through June 30, 1994).

II. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC 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. MCC 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

MCC proposes to amend a portion of its Services and Schedule of Charges by waiving certain fees associated with trades in the CXM through September 30, 1994. Proposed additions are italicized and proposed deletions are bracketed:

ACCOUNT MAINTENANCE

	Charge/month
Participant Account Maintenance Fee:	
(Local and Out of Town Accounts)	$170.00
(Specialist, Trading and Market Maker Accounts)	160.00
Secondary Account (Specialist, Trading and Market Maker Accounts)	125.00
MCC Only Settlement Fee	200.00

Secondary Account Maintenance Fees for market maker accounts opened for trading in the Chicago Basket ("CXM") shall be waived through [June 30, 1994] September 30, 1994.

Trade Recording

In addition, a discount of $0.15 per trade side recorded will be applied to the trade recording fees for trades of 1,000 shares and larger when a participant exceeds 10,000 recorded trade sides each month (excluding inbound RIO trades).

All trade recording fees shall be waived for trades in the Chicago Basket ("CXM") through [June 30, 1994] September 30, 1994.

The proposed rule change is consistent with Section 17A of the Act[3] in that it provides for the equitable allocation of a reasonable fee among MCC's clearing members as required by Section 17A(b)(3)(D) of the Act.[4]

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78q–1(b)(3)(D).

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to Section 19(b)(3)(A)(ii)[5] of the Act and pursuant to Rule 19b–4(e)(2)[6] promulgated thereunder because the proposed rule change establishes or changes a due, fee, or other charge imposed by MCC. 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 filings will also be available for inspection and copying at the principal offices of MCC. All submissions should refer to File No. SR–MCC–94–08 and should be submitted by August 3, 1994.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e)(2) (1993).

For the Commission by the Division of Market Regulations, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16952 Filed 7–12–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34324; File No. SR–MSTC–94–04]

Self-Regulatory Organizations; Midwest Securities Trust Company; Order Approving a Proposed Rule Change Relating to Limited Purpose Participants

July 6, 1994.

I. Introduction

On February 3, 1994, the Midwest Securities Trust Company ("MSTC") filed a proposed rule change (File No. SR–MSTC–94–04) with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on April 1, 1994, to solicit comments from interested persons.[2] No comments were received. As discussed below, this order approves the proposal.

II. Description of the Proposal

The purpose of the proposed rule change is to create a Limited Purpose Participant Program. On October 8, 1993, the Commodity Futures Trading Commission ("CFTC") issued an order approving the Chicago Mercantile Exchange's ("CME") proposal to revise the program whereby the CME accepts stock as clearing house performance bond margin. Under the revised program, all stock pledged as performance bond margin is maintained at MSTC.[3] In order to carry out the revised program, the CME became a pledgee participant at MSTC.[4] Clearing members of the CME that are also participants at MSTC have been able to take advantage of this program by utilizing MSTC's existing Automated Pledge Loan Program. Because futures commission merchants ("FCMs") who are not registered as broker-dealers ("BDs") do not meet MSTC's existing qualifications to be MSTC participants, they have been unable to participate in the current CME program. MSTC is establishing the Limited Purpose Participant Program to accommodate those CME clearing members registered solely as FCMs.

Limited purpose participants will be limited to FCMs that are clearing members of a futures exchange. The activities at MSTC for which a limited purpose participant will be eligible will be limited to making or receiving free depository delivery instructions ("DDIs") of securities, maintaining segregated positions for the purpose of effecting free pledges of securities to a specified pledgee participant (*i.e.*, the futures exchange of which they are a clearing member), receiving a return of the securities from that pledgee participant, and receiving credits from MSTC for any cash dividends received on those securities. Limited purpose participants will not be able to make physical deposits or physical withdrawals of securities. Limited purpose participants will not be eligible for any other service offered by MSTC.

In order to deposit securities in the limited purpose program, custodial banks or broker-dealers, acting on behalf of limited purpose participants, will transfer book-entry positions to the participants' limited purpose accounts at MSTC. Movements of positions from limited purpose accounts into the CME's pledge accounts will only occur by order of the limited purpose participants, and only the CME may release positions from its pledge accounts to the limited purpose accounts. If limited purpose participants no longer wish to pledge securities held in the limited purpose accounts, such participants will instruct MSTC to move the positions out of their limited purpose accounts to their designated bank or broker-dealer account at MSTC for further disposition.

In creating the CME clearing member stock pledge program,[5] CME and MSTC entered into an agreement clarifying certain points not covered in either MSTC's Automated Pledge Loan Program Agreement or in MSTC's Rules.[6] In general, MSTC acknowledges the following.

(1) MSTC will comply with any instructions received from CME related to the pledged securities, notwithstanding any conflicting instructions received from any clearing member or in any pending proceeding under the Bankruptcy Code except to the extent that there is an effective written order issued by a court of competent jurisdiction.

(2) MSTC will not permit a limited purpose participant to pledge to a CME pledge account (a) Any security not on the list of eligible securities that CME will provide to MSTC; (b) any security whose closing price on the day preceding the day of the attempted pledge was not at least $10.00; (c) any security with respect to which MSTC has actual knowledge of an existing encumbrance at the time of the attempted pledge; or (d) any security against which MSTC may assert a lien.

(3) MSTC has been advised by the CME that customer securities in the CME pledge account are required to be segregated in accordance with the provisions of the Commodity Exchange Act and that prior to the first pledge of customer securities, MSTC will execute an agreement that the funds and securities in the segregated customer pledge account will not be subject to any lien or offset or liability owing to MSTC by the CME or any other person and that such funds shall not be applied by MSTC to any such indebtedness or liability.

(4) MSTC acknowledges the provisions dealing with MSTC's rights and obligations set forth in CFTC's order approving the CME's stock pledge program.

To accommodate the proposed rule change, MSTC added to Article I ("Definitions and General Provisions") of its rules definitions of Limited Purpose Participants and Limited Purpose Account, added to Article II ("Settlement Services") Rule 7 which describes the Limited Purpose Participant Program, and added to Article V ("Participants") Rule 1 ("Qualifications of Applicants to Become a Participant") paragraph (i) which sets forth the qualifications of a limited purpose participant.

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[7] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 33820 (March 25, 1994), 59 FR 15469 (notice of filing of proposed rule change).

[3] Previously, CME clearing members who wished to use equity securities to satisfy their performance bond margin requirements deposited those securities with the CME's settlement banks or with other qualified depositories selected by the CME.

[4] Pledgee participants under MSTC rules are participants who maintain accounts established with MSTC to reflect such participants' interest as a pledgee or holder of securities transferred from one or more depository accounts.

[5] The CFTC approved CME stock pledge program will only permit clearing members to deposit equity securities as performance bond margin to meet a reserve requirement, an amount assessed in excess of the ordinary prudential core margin requirement. The core requirement is intended to cover at least 95% of all anticipated one-day price moves in the applicable contract. Reserve requirements likely will be set at levels that reflect those noneconomic factors that the CME may determine are necessary. If the loss associated with a clearing member default was expected to exceed the proceeds that the CME would receive from the liquidation of core performance bond assets, reserve performance bond assets would be liquidated and applied against any such excess losses.

[6] Letter agreement between the CME and MSTC (October 5, 1993).

III. Discussion

The Commission believes the proposal is consistent with the purposes and requirements of Section 17A of the Act.[7] In particular, the Commission believes the proposal meets the requirement of Sections 17A(b)(3) (A) and (F) that a clearing agency be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.[8]

In approving MSTC's rule change creating a limited purpose participant, the Commission recognizes the desire of market participants, even in the CFTC regulated futures market, to meet their margin requirements with assets other than cash or government securities. The MSTC proposal extends the use of equity securities as margin to FCM's that are also clearing members of a board of trade.[9] MSTC has structured the proposal to limit the services available to limited purpose participants so that only those services necessary to pledge securities to CME's pledge account may be accessed. In addition, the CME has agreed to indemnify MSTC for and from all claims, losses, liabilities, and expenses arising from any actions MSTC takes or does not take in accordance with the instructions received from CME.[10]

The Commission believes that the structure of the program and the safeguards that MSTC has built into the program should reduce the risk to MSTC in holding securities pledged to CME. In light of the fact that the CME clearing house, not MSTC, bears the risk of loss on the futures positions creating the performance bond requirements, the Commission believes the proposed rule change satisfies MSTC's obligation to safeguard securities and funds in its custody or control or for which it is responsible.

IV. Conclusion

For the reasons stated above, the Commission finds that MSTC's proposal is consistent with Section 17A of the Act.[11]

[7] 15 U.S.C. 78q–1 (1988).

[8] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[9] CME Rule 901 sets forth the requirements and obligations for clearing member status at the CME. A clearing member must demonstrate financial capitalization commensurate with the CME's requirements, and a clearing member must continue to maintain such financial requirements or suffer suspension and revocation of its clearing house membership. If the CME were to revoke the clearing membership of a FCM, that FCM will not be eligible for MSTC's limited purpose program.

[10] Point 1 of letter agreement between CME and MSTC (October 5, 1993).

[11] 15 U.S.C. 78q–1 (1988).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that MSTC's proposed rule change (File No. SR–MSTC–94–04) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16953 Filed 7–12–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34325; File No. SR–NYSE–94–18]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to the Allocation Policy and Procedures

July 7, 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 May 26, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Exchange's Allocation Policy and Procedures.[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.

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1992).

[1] The exact text of the proposed rule change was attached as Exhibit A to File No. SR–NYSE–94–18 and can be obtained at the places specified in Item IV below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The intent of the Exchange's Allocation Policy and Procedures ("Policy") is to ensure that each security is allocated in the fairest manner possible to the best specialist unit for that security. In order to enhance its stock allocation decisions, the Exchange conducts a periodic review of its allocation process. As the result of the Exchange's most recent review, a number of changes to the Policy, discussed below, are being proposed.

The Exchange proposes to change the composition of the Allocation Committee (the committee that determines which specialist unit will specialize in a particular security). The Committee, which consists of nine members, would include three broker Governors [2] (one of whom may be an independent/two-dollar broker),[3] four other Floor brokers from the Allocation Panel (one of whom must be an independent/two-dollar broker), and two allied members [4] from the Market Performance Committee or the Panel. For options allocations, only one Governor would sit on the Committee. Currently, only one Governor sits as a member of the Allocation Committee, and the policy does not require that one member of the Committee be an independent/two-dollar broker.

The Exchange is proposing to change the quorum requirement for the Allocation Committee to require that at least two Floor Broker Governors be present out of the seven member quorum. For options allocations, a quorum would include one Governor. Currently, only one Governor is required for a quorum.

The Exchange is proposing to allow Governors to serve as chairman of the Allocation Committee. Currently, they are not eligible to serve. The Policy would also be amended to require all candidates for chairman to have prior experience on the Allocation Committee.

The Exchange proposes to amend the Policy to state that all incoming

[2] A Floor Governor is an individual, designated as such by the Chairman of the Exchange's Board of Directors, who is empowered to perform any duty, make any decision or take any action assigned to or required of a Floor Director as prescribed by the rules of the Exchange's Board of Directors.

[3] The Exchange defines an "independent/two-dollar broker" as a member on the Exchange floor acting as a broker for other members.

[4] An allied member is a general partner, principal executive officer or employee who controls a member firm or member organization.

Allocation Committee members are expected to observe as many Committee meetings as possible prior to beginning their terms as Committee members.

The Exchange is proposing to change the composition of the Allocation Panel (the 36 member group from which the Allocation Committee is drawn). The panel would be composed of 36 members, including 28 Floor brokers and eight allied members, plus the eight broker Governors and four allied members serving on the Exchange's Market Performance Committee. Currently, the four allied members of the Market Performance Committee do not serve on the Panel.

Selection to the Allocation Panel currently occurs through an annual appointment process which utilizes input from the membership. The Exchange is proposing to amend the Policy to require Panel members to be nominated by the Exchange membership.

To be eligible to serve on the Allocation Panel, the Exchange currently requires Floor brokers to have five years of trading Floor experience. The Policy also states that to the maximum extent possible, the Panel should consist of a core group of experienced, senior professionals, such as former Allocation Committee chairmen, senior Floor Officials, and current and former Floor Governors. In the case of allied members, the member organization is appointed to the Panel and it selects a representative to serve. The Exchange is proposing to amend the Policy to require that the allied members chosen to serve have at least five years of experience in trading listed equities and have a senior position on the trading desk. The Policy would also be amended to permit allied members to designate one alternate who meets the Panel qualifications, subject to approval by the Floor Directors.

The Exchange is proposing to amend the Policy to provide for a four month term of service on the Allocation Committee for all members, including Governors. The current terms are six months for non-Governor members and two months for Governors. The Exchange is also proposing to codify the existing practice of permitting Panel members to serve a maximum of six consecutive one year terms and to stagger terms so that every two months four or five members would rotate from the Allocation Committee.

Finally, the Exchange is proposing to codify its practice on the allocation of merging listed companies. The Policy would be amended to state that when two listed companies merge, the new entity would be assigned to the specialist in the company determined to be the surviving/dominant company. If no surviving/dominant company could be identified, the entity would be referred to the Allocation Committee for allocation. Currently, the Market Performance Committee, with the assistance of Exchange Counsel and the Marketing Division, makes the determination of which company is the surviving/dominant company.

(2) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general, to protect investors and the public interest. The proposed amendments are consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on 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 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, N.W., Washington, D.C. 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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–18 and should be submitted by August 11, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16896 Filed 7–12–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34328; File No. SR–PSE–92–42]

Self-Regulatory Organizations; Filing of Amendment Nos. 2 and 3 to Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Listing and Trading of SCOR Securities on the Exchange

July 7, 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 June 2, 1994 [1] and July 7, 1994 the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") Amendment Nos. 2 and 3 to File No. SR–PSE–92–42 [2] as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the amendment to the

[1] The Exchange subsequently filed Exhibit 1 to the Amendment (form of notice for **Federal Register**) with the Commission on June 15 and June 22, 1994.

[2] The proposed rule change was published for public comment in Exchange Act Release No. 32514 (June 25, 1993), 58 FR 35496 (July 1, 1993).

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is amending its proposal to list and trade Small Corporate Offering Registration ("SCOR") securities on 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 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 Exchange is amending its proposal to list securities under the SCOR designation. The amendment is partly based upon discussions the Exchange has held, subsequent to the initial filing, with committees of the North American Securities Administrations Association, Inc. ("NASAA"),[3] the California Department of Corporations, and leaders from the small business community. The Exchange believes that the proposal, as amended, satisfactorily addresses the mutual concerns of these individuals and organizations.

Inclusion of Preferred Stock

The Exchange notes that many companies, particularly in the high-technology sector, have a capital structure consisting of two classes of capital stock, *i.e.*, a single class each of common and preferred. The class of common stock is privately held by insiders and, generally, is not transferable, while the preferred stock is issued to qualified public investors. Under this structure, holders of preferred stock have preference over common shareholders in the event of liquidation. The Exchange has determined, accordingly, that it would consider listing a company's preferred stock under the SCOR program if the company's overall capital structure and corporate governance policies were sufficiently designed to protect the interests of public investors.

Initial Listing Requirements

The Exchange's initial filing proposed that each issuer of a SCOR security have a public float of at least 200,000 shares and a market capitalization of $1 million. Since the $1 million market capitalization requirement also represents the maximum offering amount allowable under Rule 504, the Exchange is proposing to lower the effective market capitalization threshold to $750,000, with a corresponding reduction in public float to 150,000 shares and in net worth to $750,000. This reduction would provide a viable range of $750,000 to $1 million for SCOR offerings, making allowances for potential costs associated with the offering. The Exchange believes that, with these modifications, the SCOR listing program will be more viable in enabling bona fide companies to raise capital pursuant to Rule 504. The Exchange also believes that these proposed changes to the initial listing requirements for SCOR securities will continue to ensure adequate public distribution, and will not inhibit the growth of the trading markets or negatively influence specialists' abilities to maintain fair and orderly markets. The public float requirement of 150,000 shares exceeds the NASDAQ Small Cap initial listing standard of 100,000 shares. Moreover, the Exchange's calculation of public float is more stringent than that of the NASD in that it excludes any concentrated holdings of 5% or more.[4] Finally, because certain SCOR offerings may be "integrated,"[5] it is conceivable that the applicant issuer may have a greater public distribution than initially expected and, therefore, would further exceed the minimum requirements.

Net Worth and Net Tangible Assets

To prevent a company that has no tangible assets net of liabilities from being listed, the Exchange will apply both net worth and net tangible assets as a test. Accordingly, proposed Rule 3.2(t)(2) would require that a company have both net tangible assets of at least $500,000 and a total net worth of at least $750,000.

Audited Financial Statements

Proposed Rule 3.2(t)(4) provides that, at the time of its application, the issuer must provide the Exchange with audited financial statements for the most recent fiscal year-end (and unaudited interim financial statements), and that such statements must be prepared in accordance with generally accepted accounting principles.

Qualitative Listing Requirements

Proposed Rule 3.2(t)(6) sets forth additional qualitative requirements in determining a company's listing eligibility. The fact that an applicant may meet the numerical requirements does not mean that its application will be approved. The Exchange recognizes the potential for investor risk in SCOR securities; however, the Exchange is confident that through a rigorous merit review process, it can attain the mutual goals of supporting small business capital formation while providing sufficient protection for the investing public.

Preferred Stock—Anti-Dilution Clause

The Exchange is proposing in Commentary .04 to Rule 3.2(t) to provide that it will not list convertible preferred issues containing a provision that permits the company, at its discretion, to reduce the conversion price of its stock other than in accordance with the terms of the company's articles of incorporation or any amendments thereof made contemporaneously with the offering under which the issuer is applying for listing.

Representations of Approval for Listing

The Exchange has added language that clearly prohibits a company or broker-dealer from misrepresenting SCOR securities as having been approved for Exchange listing when, in fact, they have not been approved. Accordingly, the Exchange is proposing to add Commentary .05 to Rule 3.2(t) stating that any reference to this Exchange made either by the issuer or the underwriter of the issuer in any prospectus, offering circular, or similar document that reasonably implies endorsement or listing approval by the Exchange, and which is made without the prior consent to the Exchange, is prohibited.[6]

[3] The Exchange consulted extensively with the Small Business Capital Formation and the Small Business Sales Practices committees of NASAA.

[4] The NASD excludes concentrated holdings of more than 10 percent. *See* NASD By-Laws, Schedule D, Part II, Sec. 1(c)(7).

[5] Factors to be considered in determining whether offerings should be "integrated" are whether the offerings: (1) Involve the same class of security, (2) involve the same type of consideration, (3) are part of a single plan of financing, (4) are made at or about the same time, and (5) are made for the same general purpose. *See* Securities Act Release Nos. 4434 (1961) and 4552 (1963).

[6] If the Exchange finds that a company or broker-dealer has engaged in such conduct, it will

Continued

Delisting

Proposed Rule 3.5(r), Commentary .01, has been revised to incorporate specific times required for compliance with certain maintenance requirements once a deficiency has occurred. The commentary now states that a company with a deficiency in either market value of public float or minimum bid price for ten consecutive business days shall have 90 days thereafter in which to comply with the maintenance requirements. It further states that, should the deficiency continue beyond the prescribed period, the Exchange shall delist the security.

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Commission published the Exchange's rule proposal to list SCOR securities in July 1993.[7] Several comment letters were received by the Commission, including comments from the California Department of Corporations[8] and NASAA's Small Business Capital Formation Committee.[9] While these comment letters generally supported the Exchange's overall policy objectives to facilitate capital formation for small companies and to provide public investors in those securities with more liquidity, the agencies recommended that revisions be made to the Exchange's rule proposal to strengthen the qualitative listing requirements in order to ensure adequate investor protection. They also suggested that more precise language be incorporated to assure that the listings requirements would not be waived.

In the months that followed (September 1993 through May 1994) the Exchange consulted extensively with the California Department of Corporations and NASAA[10] to resolve the above-mentioned comments as well as other questions that were subsequently raised during this time interval. After careful review and consideration of all the information received from the aforementioned parties, the Exchange incorporated new language into the rules that the Exchange Staff believes satisfactorily addresses these comments. A number of minor changes have been made throughout the filing for stylistic and clarification purposes.

The most substantive comments received by the Exchange that precipitated this amendment are categorically discussed below.

Representations of Approval for Listing

In the original proposal, NASAA was troubled by the lack of a definitive enforcement standard precluding companies (or underwriters) from falsely claiming in a prospectus that the securities being offered were approved for listing on the Exchange. The Exchange appreciated NASAA's concerns that a company or broker-dealer may employ such a scheme to defraud any prospective investor by misrepresenting that SCOR securities have been approved for listing. To address this concern, the Exchange has added more precise language that clearly prohibits this practice.[11]

Qualitative Listing Requirements

As mentioned above, the California Department of Corporations and NASAA suggested that the Exchange incorporate additional qualitative factors that would be evaluated in determining a company's listing eligibility. Therefore, the Exchange expanded and provided further specificity to the guidelines to be considered in the review of any listing application. The standards set forth in proposed Rules 3.2(a) and 3.2(t)(6) are intended to provide guidelines that will be strictly enforced. The fact that an applicant may meet the numerical requirements does not mean that its application will be necessarily approved.

Compliance with Listing Requirements for Minimum Price and Market Capitalization

In a letter dated March 21, 1994, the California Department of Corporations questioned how and when the initial listing requirement for market capitalization would be calculated. In order to eliminate any potential confusion in determining whether the issuer satisfies the initial price per share and market capitalization requirements, the Exchange decided to provide further specificity to the pricing guidelines.[12] The Exchange felt that any direct reference to the term "market value" as proposed in the original rule filing would be inappropriate because there is no practical means to establish how and when market value is calculated.

Trading Environment

The Exchange received comment letters from the California Department of Corporations and NASAA, dated March 21 and April 13, 1994, respectively, which expressed similar concerns regarding the role and obligations of the specialist in trading SCOR securities. On May 2, 1994, the Exchange provided the California Department of Corporations with a formal response to their inquiry and cited specific provisions of Exchange regulations governing a specialist's trading obligations, capital requirements, and performance standards. In this letter, the Exchange made a strong commitment toward ensuring that their SCOR listing policies and trading procedures would be effectively applied and well administered.

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

immediately report the matter to the appropriate state regulatory agency and to the Commission.

[7] *See* Exchange Act Release No. 32514 (June 25, 1993), 58 FR 35496 (July 1, 1993).

[8] *See* letter from Brian A. Thompson, Acting Commissioner of Corporations, State of California, to Jonathan G. Katz, Secretary, SEC, dated July 21, 1993.

[9] *See* letter from Neal E. Sullivan, Chairman, NASAA's Small Business Capital Formation Committee, to Jonathan G. Katz, Secretary, SEC, dated July 30, 1993. The Commission also received 15 supportive comment letters from small companies and individuals.

[10] In February 1994, the Exchange was advised by Barry Guthary, Chairman of NASAA's Small Business Capital Formation Committee, that our initiative to list SCOR securities would be more appropriately reviewed by the NASAA Small Business Sales Practices Committee chaired by Deborah Bortner, Assistant Securities Administrator, State of Washington Securities Division. Consequently, since March 1994, the Exchange has received constructive and valuable input from this committee. In a letter dated April 14, 1994, the Exchange received a formal response from Ms. Bortner's committee regarding the Exchange's amended rule proposal.

[11] *See* proposed Rule 3.2(t), Commentary .06.

[12] *See* proposed Rule 3.2(t)(3) and subsections (iv) and (v) of proposed Rule 3.2(t)(6).

(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 PSE. All submissions should refer to File No. SR–PSE–92–42 and should be submitted by August 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16954 Filed 7–12–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2034]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Safety of Navigation; Notice of Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on Thursday, August 3, 1994, in room 6103 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting is to prepare for the 40th session of the Subcommittee on Safety of Navigation of the International Maritime Organization (IMO) which is scheduled for September 5–9, 1994, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

—Decisions of other IMO bodies
—Role of the human element in maritime casualties
—Routing of ships
1. Prevention of strandings at sea
2. Navigational risks in the Malacca Strait
3. Mandatory routing
4. Amendments to the General Provisions of Ships' Routing

—Review of resolution A.578(14)
—Requirements for ship reporting
—Navigational aids and related equipment:
1. worldwide navigation system
2. updating information for electronic navigation charts
3. electronic chart display and information systems
4. review and revision of resolutions [A.342(IX)], A.422(XI), [A.477(XII)] and A.478(XII). Development performance standards for radars, ARPA, gyro compasses and automatic pilots for high speed craft
5. International Telecommunications Union (ITU) matters, including Radiocommunication Study Group 8
6. Approval and performance standards for non-compulsory shipborne navigational equipment

—Revision of SOLAS chapter V
—Review of existing ship's safety standards
—Officer of the navigational watch acting as the sole lookout in periods of darkness
—Bridge procedures and revision of Standards of Training, Certification, and Watchkeeping (STCW) regulation II/1 and Standards of Training and Watchkeeping (STW) Conference resolution 1
—International Code of Signals
—Review of World Meteorological Organization (WMO) handbooks on navigation in areas affected by sea-ice
—Standardization of essential bridge and engine room instrumentation
—Ergonomic criteria for bridge equipment
—IMO standard communication phrases
—Removal of wreck and towage of offshore installations, structures, and platforms
—Code for the Safe Carriage of Irradiated Nuclear Fuel
—Operational aspects of ekranoplanes
—Use and application of onboard computers
—Participation in the World Meteorological Organization (WMO) Voluntary Observing Ships Scheme
—Work program
—Any other business

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–NSR–3), Room 1416, 2100 Second Street, SW, Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: July 1, 1994.

Marie Murray,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94–16970 Filed 7–12–94; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Air South, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 94–7–7) Docket 49500.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Air South, Inc., fit, willing, and able and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than July 18, 1994.

ADDRESSES: Objections and answers to objections should be filed in Docket 49500 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: July 7, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–16998 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–62–P

Federal Highway Administration

Environmental Impact Statement: I–66 Access Study, Haymarket, Prince William County, VA

AGENCY: Federal Highway Administration (FHWA), U.S. DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for proposed highway improvements on Interstate Route 66 in Prince William County, Virginia. These improvements will provide access to transportation facilities and related development in the area including the proposed Disney development. The pending FHWA action is a decision on a VDOT proposal for (1) a new interchange access to I–66 west of the existing I–66/Route 15 interchange, (2) modifications to the existing I–66/Route 15 interchange and (3) modifications to the existing I–66/Route 29 Interchange. There are no federal funds involved in the proposed transportation improvements at these sites.

FOR FURTHER INFORMATION CONTACT: Robert E. Gatz, Director, Office of Planning and Program Development, Region 3, Federal Highway Administration, Suite 4000, 10 S. Howard Street, Baltimore, Maryland 21201; Telephone: (410) 962–3742 or Earl Robb, Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219: Telephone (804) 786–4559.

SUPPLEMENTARY INFORMATION: The FHWA, participating with the Virginia Department of Transportation (VDOT), will prepare an environmental impact statement (EIS) on the federal actions which include modifications to the existing I–66/Route 15 interchange, modifications to the existing I–66/Route 29 interchange and a new access point to I–66 west of Route 15 interchange. In addition, the EIS will include a discussion of: (1) The widening of I–66 from Route 234 to approximately 2 miles west of the existing interchange with Route 15, a distance of approximately 8.5 miles (the proposed improvements are considered necessary to improve traffic flow along the I–66 corridor, accommodate current and projected traffic demands, to serve existing and future access needs in the region and to improve transportation safety); (2) the widening of Route 15 and (3) the relocation of portions of Routes 55 and 681 near the I–66 interchange.

Alternatives under consideration include, but are not limited to: (1) Taking no action (no build); (2) Transportation System Management Activities (improving present systems); (3) transit options; (4) upgrading existing roadways and build alternatives based on variations of typical section, grade and alignment and (5) combinations of alternatives.

The subject areas to be studied in the EIS process will include, but are not limited to: traffic and transportation service, air quality, noise, surface and groundwater resources, soils and geology, wetlands, vegetation and wildlife, farmlands, visual, community impacts, historic sites and structures and archaeological resources, parks, wildlife refuges and recreational areas, construction impacts, secondary impacts of the proposed transportation project and cumulative impacts.

Information describing the proposed action and study will be provided to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have an interest in this project to solicit their comments. An extensive public and interagency involvement process will be maintained throughout the EIS process. Public meetings will be held at a number of locations. In addition, a formal public hearing will also be held after the issuance of the draft EIS. The draft EIS will be available for public and agency review and comment prior to the formal public hearing. Public notice will be given of the time and place of these meetings and of the hearing. A decision has been made to conduct scoping for this project and following publication of this Notice of Intent, the FHWA and VDOT will begin the scoping process in accordance with 40 CFR 1501.7. Times and locations of the scoping meetings have not yet been set. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or to the VDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: July 5, 1994.

Robert E. Gatz,

Director, Office of Planning and Program Development, Region Three, FHWA, Baltimore, Maryland.

[FR Doc. 94–16871 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[BS–AP–NO. 3289]

Southern Pacific Lines; Cancellation of Public Hearing

The Federal Railroad Administration (FRA) has cancelled the public hearing on the captioned block signal application because the application has been withdrawn by the railroad. The hearing had been scheduled for July 28, 1994, in Eugene, Oregon.

In the now withdrawn application the Southern Pacific Lines petitioned the FRA seeking approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track, between Ashland, milepost C–429 and Glendale, milepost C–510, Oregon, on the Siskiyou District, Pacific Region, a distance of approximately 81 miles. (See 59 FR 31669, June 20, 1994).

The FRA regrets any inconvenience occasioned by the cancellation of this hearing.

Phil Olekszyk,

Acting Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 94–16999 Filed 7–12–94; 8:45 am]

BILLING CODE 4910–06–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of priority areas for Commission research and amendment study. Request for public comment.

SUMMARY: As part of its continuing analysis of sentencing issues, including the operation of the federal sentencing guidelines, the Commission has identified certain priorities as the principal focus of its work in the coming year and, in some cases, beyond. Following the practice of past years, the Commission invites comment on the identified priorities (including the scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to an identified priority). The Commission also invites comment on any other aspect of guideline application that it should address during the coming year.

DATES: Public comment should be received not later than August 31, 1994, to be considered by the Commission in shaping its work during the next amendment cycle.

ADDRESSES: Send comment to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Information—Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States Government, is empowered under 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to review and revise promulgated guidelines periodically and authorizes it to submit guideline amendments to the Congress not later than the first day of May each year. See 28 U.S.C. 994(o), (p).

As in previous years, by this announcement the Commission begins the amendment cycle by soliciting formal and informal comment regarding certain areas upon which the Commission expects to concentrate its attention during the coming year. This notice provides interested persons with an early opportunity to inform the Commission of legal, operational, or policy concerns within the identified areas relating to the guidelines and to suggest specific solutions and alternative approaches. In late 1994 or early 1995, the Commission expects to publish in the **Federal Register** a formal notice of proposed amendments and amendment issues and will invite comment on those proposals.

Following are the priority areas for amendment study, research, or other planned actions identified by the Commission. Where possible, a general timeframe for the initiative is indicated. These timeframes should be considered subject to change as the Commission deems necessary.

• Implementation of the 1994 crime bill directives—Implementation of the crime bill (expected to be finalized by Congress in the summer of 1994) will be the Commission's most time-sensitive project. A substantial number of provisions in the bill can be expected to require Commission attention, some involving proposed guideline amendments and others entailing study, e.g., a study of crack and powder cocaine. The Commission expects these implementation efforts to be its top priority, with an anticipated completion date of December 1, 1994, or as directed by the statute.

• Comprehensive review and revision of the drug offense guidelines—Based on Commission discussion of amendments, continuing issues in the courts, and debate on the 1994 crime bill, it is clear that the sentences of drug offenders, who represent nearly 50 percent of defendants in federal courts, remain a major issue of concern. In particular, the appropriate weight to assign to drug quantity in relation to other factors, such as role and violence, remains a critical issue for Commission investigation in the upcoming amendment cycle.

• Symposium on organizational guidelines—At Commission direction, a staff working group is creating an agenda for a symposium/workshop on organizational guidelines. The completed agenda with proposed program participants will be submitted to the Commission at its September meeting.

• Implementation of the new ASSYST and Automated Order of Judgment in a Criminal Case computer programs—These programs will reach the field implementation stage in the coming year. Field testing of the Automated Order of Judgment in a Criminal Case began in June 1994. An updated version of ASSYST (a computer program to help users apply the guidelines) will be ready for field distribution in October 1994.

• Real offense conduct data collection—The 1994 Annual Report will include information from the Commission's newly developed real offense conduct module now undergoing final testing and development.

• Substantial assistance working group—This ongoing working group will proceed immediately with the data collection portion of its study effort. A preliminary report should be submitted to the Commission in December 1994.

• Comprehensive guideline simplification—A long-term staff working group will focus on simplification of the guidelines. The working group will develop a plan for Commission consideration by December 1, 1994.

• Plea bargaining—The Commission's Office of Policy Analysis will design a follow-up study of the results reported by Commissioner Ilene H. Nagel and Professor Stephen Schulhofer, examining changes that have occurred since the conclusion of their study. This new study, in combination with the Commission's guideline evaluation work and the Nagel/Schulhofer findings, should form the basis for a reassessment of the initial policy statements in Chapter Six of the Guidelines Manual. The research design should be complete by January 1, 1995.

• Just punishment study—Data collection for the Commission's statutorily directed study of the just punishment purpose of sentencing has been completed. The complete report should be received by the Commission by January 1, 1995.

• Crime mix study—A crime mix study by the Commission's research staff examined the nature of offenses occurring over the past several years. The research question asks whether criminal offenses and offenders have become more serious over time, thus providing additional explanation for the increase in incarceration rates. Data collection is complete, and the report is in the drafting stage. The Commission expects to receive a final draft of the report by September 30, 1994.

• Review of policy statements for revocation of probation and supervised release (Chapter Seven of the Guidelines Manual)—Anticipating the passage of legislation as part of the crime bill to address a number of problem areas affecting revocation of probation and supervised release, the Commission expects to begin a review of the revocation policy statements to determine whether they should be promulgated as guidelines. Toward that end, the Commission expects to increase efforts during the coming year to collect data from all districts and assess how the policy statements are operating.

• Joint Bureau of Prisons/Administrative Office/Federal Judicial Center/Sentencing Commission group to study retroactivity issues—The Judicial Conference Criminal Law Committee, at its June meeting, authorized Federal Judicial Center staff to convene an interagency group to examine a broad spectrum of issues related to retroactivity of amended guidelines and resentencing, undoubtedly bringing policy issues to the Commission and the Criminal Law Committee for consideration at some future date.

• Departures—In the summer of 1994 Commissioners Ilene Nagel and Michael Gelacak are expected to submit a preliminary analysis of departure decisions involving six judicial circuits.

• Commission operating rules and procedures—As authorized by statute and recommended by a number of groups, the Commission intends to develop, publish for comment, and adopt additional internal rules of procedure governing such matters as the conduct of Commission meetings, the amendment process, and operation of advisory committees. Preliminary work on these rules will begin immediately.

• Geriatric offenders—Preliminary work is underway on issues related to sentencing and sentence administration

of geriatric offenders. The Commission's Policy Analysis group will complete preliminary data analysis within the next several months, and the Commission will continue to work cooperatively with the Bureau of Prisons on these issues.

• Criminal history—Considerable research related to criminal history currently is underway by the Commission to assist in reevaluating original policy choices reflected in the criminal history guidelines. Commission staff will report the results of various relevant studies over the course of the coming year. The criminal history guidelines will also be studied for ways to simplify them.

• Organizational guidelines for environmental and food and drug offenses—Guideline development for organizational defendants convicted of environmental and food and drug offenses will proceed deliberately pending appointment of a full slate of Commissioners.

The Commission welcomes comment about the aforementioned issues as well as any other aspect of guideline application or implementation of the Sentencing Reform Act.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 94–16898 Filed 7–12–94; 8:45 am]

BILLING CODE 2210–40–P

DEPARTMENT OF VETERANS AFFAIRS

Meeting of Special Medical Advisory Group; Subcommittee on Eye Care in VA

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is given that, under Public Law 92–463, there will be a meeting of the Special Medical Advisory Group Subcommittee on Eye Care in VA. The purpose of the Special Medical Advisory Group Subcommittee on Eye Care in VA is to advise the Secretary and Under Secretary for Health relative to the eye care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration. All sessions will be open to the public up to the seating capacity of the meeting room.

DATES: The meeting will be held August 30, 1994. The session will convene at 8 a.m. Because there will be limited seating capacity, those wishing to attend should contact Charles F. Mullen, O.D., Director, Optometry Service, 810 Vermont Avenue, NW., Washington, DC 20420, 202–535–7242 or 410–687–8375, prior to August 24, 1994.

ADDRESSES: The meeting will be held at the Washington Vista Hotel, 1400 "M" Street, NW., Sherwood Room, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Charles F. Mullen, O.D., Director, Optometry Service, Department of Veterans Affairs, 202–535–7242 or 410–687–8375.

SUPPLEMENTARY INFORMATION: None.

Dated: June 24, 1994.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–16888 Filed 7–12–94; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on the Readjustment of Vietnam and Other War Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans will be held July 21 and 22, 1994. This is a regularly scheduled meeting for the purpose of reviewing VA and other relevant services for Vietnam and other war veterans, to review Committee work in progress and to formulate Committee recommendations and objectives. The meeting on both days will be held at the American Legion, Washington Office, 1608 K Street, NW, Washington, DC. The meeting on both days will commence at 8:30 and adjourn at 4:30 p.m.

The agenda for July 21 will begin with a review of Committee special projects and reports. The first day's agenda will also cover a review of the Readjustment Counseling Service Vet Centers, a meeting with VA's Chief Minority Affairs Officer of the Office of Policy and Planning to review and discuss VA services to minority veterans and a presentation by and discussion with the Director of Mental Health and Behavioral Sciences Service to review current VA mental health and post-traumatic stress disorder programs.

On July 22 the Committee will review pending legislation of importance for the readjustment of war veterans. The second day's agenda will also include a briefing on the status and plans of VA's Women Veterans Program Office of the Office of Policy and Planning.

Both day's meeting will be open to the public up to the meeting capacity of the room. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Department of Veterans Affairs (phone number: 202–535–7554).

Dated: June 23, 1994.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–16889 Filed 7–12–94; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 133
Wednesday, July 13, 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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 14, 1994, from 10 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business

1. Regulations

a. Director and Senior Officer Compensation [12 CFR Parts 611, 618, 620] (Final).

b. Capital (Phase I) Regulations [12 CFR Part 615] (Final).

Date: July 11, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–17129 Filed 7–11–94; 3:52 pm]

BILLING CODE 6705–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11 a.m., Monday, July 18, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 8, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–17036 Filed 7–8–94; 4:27 pm]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10 a.m., July 18, 1994.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 20, 1994, Board meeting.

2. Thrift Savings Plan activity report by the Executive Director.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: July 11, 1994.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 94–17061 Filed 7–11–94; 12:32 pm]

BILLING CODE 6760–01–M

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting Changes

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 35174, July 8, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE: A meeting of the Legal Services Corporation Board of Directors Operations and Regulations Committee will be held on July 15, 1994. The meeting will commence at 9 a.m., on July 15, 1994.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: Legal Services Corporation, 750 First Street, NE., 11th floor, Board Room, Washington, DC 20002, (202) 336–8800.

CHANGES IN THE MEETING: Agenda item number 10 has been added, and the items formerly numbered 10 and 11 have been renumbered 11 and 12. The amended agenda appears below.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.

Closed Session:

2. Approval of Minutes of June 19, 1994 Executive Session.

3. Consider and Act on General Counsel's Report on Litigation to Which the Corporation is or May Become a Party.

4. Consider and Act on Internal Personnel and Operational Matters.

Open Session: (Resumed)

5. Approval of Minutes of June 19–20, 1994 Meeting.

6. Consideration of Update on the Reauthorization Legislative Process.

7. Consider and Act on Proposed Changes to Part 1608 of the Corporation's Regulations.

8. Consider and Act on Proposed Changes to Part 1621 of the Corporation's Regulations.

9. Consider and Act on Proposed Changes to Part 1611 of the Corporation's Regulations.

10. Consider and Act on Proposed Changes to the Corporation's Bylaws.

11. Public Comment.

12. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date issued: July 8, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–17038 Filed 7–8–94; 4:46 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting Changes

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 35174, July 8, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE: A meeting of the Legal Services

Corporation Board of Directors will be held on July 16, 1994. The meeting will commence at 8 a.m.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: Legal Services Corporation, 750 First Street, NE., 11th Floor, Board Room, Washington, DC 20002, (202) 336–8800.

CHANGES IN THE MEETING: New agenda items 7, 8, and 9 have been added and the remaining (original) items have been renumbered. The revised notice is as follows.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of a majority of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board will consider and vote to approve draft minutes of executive sessions held on November 8, 1993; December 6, 1993; April 15, 1994; May 13, 1994, June 18, 1994; and executive sessions held by the Presidential Search Committee on June 16, 1994, and June 17, 1994. The Board will consult with the President and General Counsel on the matter of *Wilkinson* v. *LSC*. Further, the Board will consult with the Inspector General on internal personnel, operational and investigative matters. The Board will also consult with the President on internal personnel and operational matters. Finally, the Board will deliberate regarding internal personnel and operational matters. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2) (5), (6), (7), and (10)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (a), (d), (e), (f), and (h)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda

Closed Session:

2. Consider and Act on Draft Minutes of the November 8, 1993 Executive Session.
3. Consider and Act on Draft Minutes of the December 6, 1993 Executive Session.
4. Consider and Act on Draft Minutes of the April 16, 1994 Executive Session.
5. Consider and Act on Draft Minutes of the May 13, 1994 Executive Session.
6. Consider and Act on Draft Minutes of the June 18, 1994 Executive Session.
7. Consider and Act on Draft Minutes of the June 16, 1994 Presidential Search Committee Meeting Executive Session.
8. Consider and Act on Draft Minutes of the June 17, 1994 Presidential Search Committee Meeting Executive Session.
9. Consult with the President and General Counsel on the Matter of *Wilkinson v. LSC*.
10. Consultation by Board with the President on Internal Personnel and Operational Matters.
a. Consideration of the Inspector General's Access to Corporation Documents.
11. Consider and Act on Internal Personnel and Operational Matters.
12. Consultation by Board with the Inspector General on Internal Personnel, Operational and Investigative Matters.

Open Session: (Resumed)

13. Approval of Minutes of June 18, 1994 Meeting.
14. Chairman's and Members' Reports.
15. President's Report.
16. Presentation by Representatives of the Fundraising Project.
17. Presentation by Linda Rexer, President, National Association of IOLTA Programs.
18. Consideration of Issues Related to the Allocation and Distribution of the Corporation's Fiscal Year 1995 Appropriation.
19. Consider and Act on Proposed Changes to the Corporation's Bylaws.
20. Consider and Act on Operations and Regulations Committee Report.
21. Consider and Act on Provision for the Delivery of Legal Services Committee Report.
22. Consider and Act on Audit and Appropriations Committee Report.
a. Selection of An Accounting Firm to Conduct the Corporation's Financial Audit for the Fiscal Years 1994–1996.
23. Inspector General's Report.
24. Consideration of the Organizational Responsibility for Oversight of Grantee Annual Financial Audits.
25. Public Comment.
26. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: July 8, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–17039 Filed 7–8–94; 4:46 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting Changes

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published on July 13, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE: A meeting of the Legal Services Corporation Board of Directors Operations and Regulations Committee will be held on July 15, 1994. The meeting will commence at 9 a.m., on July 15, 1994.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: Legal Services Corporation, 750 First Street, NE., 11th Floor, Board Room, Washington, DC 20002, (202) 336–8800.

CHANGES IN THE MEETING:

LOCATION OF MEETING: Washington Court Hotel, 525 New Jersey Avenue, NW., the Montpelier Room, Washington, DC 20001, (202) 628–2100.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: July 11, 1994.

Patricia D. Batie,

Corporate Secretary.

The Legal Services Corporation's billing code number is #7050–01.

[FR Doc. 94–17155 Filed 7–11–94; 3:53 pm]

BILLING CODE 7050–01–M

Corrections

Federal Register
Vol. 59, No. 133
Wednesday, July 13, 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.

FEDERAL COMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94-35, RM-8442]

Radio Broadcasting Services; Muscatine, IA

Correction

In proposed rule document 94-12064 appearing on page 25874 in the issue of Wednesday, May 18, 1994, in the heading, the Docket No. should have appeared as set forth above.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

[RAO Letter 24 DA 94-268]

Responsible Accounting Officers: Accounting for Work Force Reduction Programs

Correction

In notice document 94-7886 appearing on page 15729 in the issue of Monday, April 4, 1994, make the following correction:

On page 15729, in the third column, beginning in the tenth line, remove "When the restructuring expenses are actually paid Nonoperating Income.".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1994-5]

Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees

Correction

In rule document 94-8690 beginning on page 17267 in the issue of Tuesday, April 12, 1994 make the following correction:

§ 102.14 [Corrected]

On page 17269, in the third column, in § 102.14, paragraph (b)(3), in the third line, remove the "§ ".

BILLING CODE 1505-01-D

federal register

Wednesday
July 13, 1994

Part II

Department of Education

Cooperative Demonstration Program (Correctional Education); Notices

DEPARTMENT OF EDUCATION

Cooperative Demonstration Program (Correctional Education)

AGENCY: Department of Education.

ACTION: Notice of final priorities, required activities, selection criteria, and other requirements for grants to be made in fiscal year 1995.

SUMMARY: The Secretary announces priorities for awards to be made in fiscal year (FY) 1995 using funds appropriated in FY 1994 under the Cooperative Demonstration Program, which is authorized by the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). Under the absolute priority, funds under this competition would be reserved for applications proposing to demonstrate successful cooperation between the private sector and public agencies in vocational education programs that serve criminal offenders under the supervision of the justice system. In addition, the Secretary particularly invites applications that, within the absolute priority on correctional education, incorporate one or more of the following invitational priorities: (1) advanced technologies; (2) community-based correctional education; and (3) juvenile justice education. The Secretary also imposes requirements related to the priorities and other matters, and will use new selection criteria in evaluating applications submitted for this competition only.

EFFECTIVE DATE: The provisions in this notice take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you wish to know the effective date, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Gail M. Schwartz or Christopher Koch, U.S. Department of Education, 400 Maryland Avenue, SW., room 4529, Switzer Building, Washington, DC. 20202–7242. Telephone: (202)–205–5621. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Cooperative Demonstration Program provides financial assistance for, among other things, model projects that demonstrate successful cooperation between the private sector (including employers, consortia of employers, labor organizations, building trade councils, and private agencies, organizations, and institutions) and public agencies in vocational education (including State boards for vocational education, State or local corrections or correctional education agencies, or eligible recipients as defined in 34 CFR 400.4). This program can help further the purposes of the National Education Goals; specifically, the correctional education priority directly supports the Goal that, by the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The designation of correctional education as a priority under the Cooperative Demonstration program is based on the critical problems of illiteracy and recidivism pervading our Nation's adult and juvenile corrections population. The U.S. Department of Education's National Adult Literacy Survey Report, "Literacy Behind Prison Walls" described a 70 percent illiteracy rate among a sample of prisoners as follows:

> About seven in ten prisoners * * * are apt to experience difficulty in performing tasks that require them to integrate or synthesize information from complex or lengthy texts or to perform quantitative tasks that involve two or more sequential operations and that require the individual to set up the problem (1993, p. vi).

Additionally, a recent study, "Vocational and Academic Indicators of Parole Success," published in the *Journal of Correctional Education*, found that inmates who had received academic and vocational training while in prison were more likely to be employed and less likely to commit crimes after their release than other inmates (Schumacker, et al., 1990).

Academic and vocational training is also critical for probationers and parolees, since the majority of the Nation's criminal offenders are serving sentences within community corrections settings. According to the Bureau of Justice Statistics, there were about 3.5 million adults under correctional supervision in the United States at the beginning of 1993. Of these, 2.6 million, or 74 percent, were under active probation or parole supervision within the community.

Educational programs for criminal offenders that use applied learning strategies to teach life skills, job skills, and literacy can reduce the likelihood that the offenders will return to the criminal justice system. After completing their sentences, ex-offenders often have limited opportunities for meaningful employment and lack necessary basic life skills, including the job-seeking and job-retention skills needed to obtain and maintain employment. Without basic literacy and job skills, it is unlikely that these persons will become fully productive members of society.

On April 6, 1994, the Secretary published a notice of proposed priorities, required activities, selection criteria, and other requirements for the Cooperative Demonstration Program (Correctional Education) in the **Federal Register** (59 FR 16192).

Note: This notice of final priorities does *not* solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, 18 parties submitted comments. An analysis of the specific comments follows:

Absolute and Invitational Priorities

Comments: One commenter recommended that priority be given to programs that build on correctional education projects previously funded under the Cooperative Demonstration Program.

Discussion: The Secretary intended that previously funded correctional education demonstration grants, awarded in September 1992, include plans for continuing after Federal funding ends, as demonstrated by the selection criteria used in the earlier competition. The Secretary believes that while expanding previously funded programs may indeed be worthwhile, other projects should be afforded the opportunity to compete for these limited Federal funds. Nevertheless, previously funded projects are eligible to apply for funds under this competition on the same basis as other projects.

Changes: None.

Comments: Several commenters made suggestions for more comprehensive services to be identified under the proposed priorities, including: pre-vocational assessment, individual training plans for students, case management as an approach to providing social services for released offenders, student retention as an outcome measure, use of support systems in the community, and the availability of non-traditional vocational training programs for female offenders. One commenter recommended that invitational priorities be created for offenders with special learning needs and histories of substance abuse. One commenter also recommended that the coordination of the academic,

vocational, and substance abuse treatment components be an integral feature of the funded projects.

Discussion: The Secretary acknowledges that all of these components would provide more comprehensive services and, under the existing priority, they may be included in an application at the applicant's discretion. The priority has been designed to allow an applicant flexibility and creativity to meet the needs that exist in its own institution or community.

Changes: None.

Comments: One commenter suggested that eligibility be expanded to include those who are not former offenders. This commenter also proposed that Federal funds be used to pay for internships in for-profit institutions.

Discussion: The Secretary believes that this competition should be limited to projects that will serve criminal offenders under the supervision of the justice system, including those on probation and parole. As discussed elsewhere in this notice, this priority was chosen based on the critical problems of literacy and recidivism pervasive among the adult and juvenile corrections population.

With respect to the comment concerning the use of Federal funds to pay for internships in for-profit institutions, the Secretary does not believe that this type of assistance is necessary for the successful completion of projects that address the absolute priority established in this notice.

Changes: None.

Comments: One commenter suggested aligning the priority with the School-to-Work Opportunities Act and national skill standards. In addition, the commenter recommended that the priority reflect current U.S. Department of Labor policy regarding education and workforce development.

Discussion: The Secretary believes the priority is consistent with the School-to-Work Opportunities Act and the Goals 2000: Educate America Act. For example, the priority includes such components as work-based and school-based learning, transition activities, and partnerships between public and private agencies, required in the School-to-Work Opportunities Act. The priority also targets the National Education Goals of adult literacy and life long learning.

The Goals 2000: Educate America Act established a Skills Standards Board. A primary responsibility of the Board will be to coordinate the development of voluntary national skill standards. At this time, national skill standards do not exist; therefore, applicants are encouraged to use common standards that have been developed by trade and professional associations, such as the National Occupational Competency Testing Institute and the Vocational-Technical Education Consortium of States, or other standards that are being utilized in current training programs, including those being developed by organizations under contract with the Departments of Education and Labor.

Changes: None.

Comments: One commenter stated that, as currently written, the absolute priority rendered them ineligible because their State legislature mandates that instruction be separate from custody.

Discussion: The Secretary acknowledges the unique circumstances surrounding education and vocational training programs for incarcerated and detained individuals. This competition, however, is specifically designed to include all criminal offenders including those in community corrections settings and, therefore, does not exclude State systems that separate custody from instruction, as long as a private sector entity is involved in the proposed project as well.

Changes: None.

Definitions

Comments: One commenter requested that the definition of "community corrections" be expanded to include individuals who may not be under the supervision of a parole or probation officer and are in the community, e.g., halfway house residents, pre-release residents, or work release program participants.

Discussion: Under the absolute priority, individuals under the supervision of the criminal justice system, including halfway house residents, pre-release residents and work release program participants, are eligible to be served. (34 CFR 400.4 defines "criminal offender" as any individual who is charged with, or convicted of, any criminal offense, including a youth offender or a juvenile offender and "correctional institution" as any prison, jail, reformatory, work farm, detention center, or halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.) Only invitational priority 2—community corrections is limited to criminal offenders under the supervision of a parole or probation officer.

Changes: None.

Comments: One commenter suggested that the definition of "life skills" be aligned with the recommendations in a report issued by the Department of Labor, the Secretary's Commission on Achieving Necessary Skills (SCANS). The commenter suggested that the life skills definition be expanded to include a number of basic, thinking, interpersonal, and resource management skills including moral, social and religious values, managing personal finances, and human resources management.

Discussion: The definition of "life skills" is consistent with many of the workplace competencies identified in SCANS. In this notice, "life skills" is broadly defined to include self-development, communication, job development, and education; however, certain limitations do exist. For example, "life skills" does not include moral, social and religious values, personal finances, and human resource management because these activities are not the types of assistance that are necessary for the success of projects that address the absolute priority established in this notice. Therefore, these are not included in the definition of "life skills."

Changes: None.

Selection Criteria

Comments: One commenter believed the State's colleges would be ineligible for assistance under the priority because the "Program Factors" selection criterion rewards correctional education programs that provide learning situated at worksite locations outside of institutions and requires interdisciplinary staff in-service education that includes security personnel.

Discussion: The purpose of this competition is to demonstrate successful cooperation between the private sector and public agencies in vocational education programs, and to provide transition from correctional education programs to productive employment. This includes, among other things, work experience or employment based learning programs. The priority and selection criteria, however, do not stipulate where the work experience is to occur or how it may be accomplished, thus allowing the applicant creativity and flexibility in developing a model.

Interdisciplinary staff in-service education involving security personnel is an important component found in comprehensive correctional education programs already funded by the Department of Education and, for this reason, is reflected in the selection criteria. Such interaction supports team building and an education system that

is mutually beneficial to both education and corrections staff.

Changes: None.

Other Requirements

Comments: Two commenters expressed concern regarding the requirement that projects funded under this competition not spend more than 10 percent of their grant funds for equipment. The commenters indicated that the Secretary's invitational priority for applications that incorporate the use of interactive instructional technologies, such as distance learning, in the context of both student learning and staff in-service training, would require a substantial investment in equipment.

Discussion: The Secretary believes that limiting the amount of Federal funds used to purchase equipment to a maximum of 10 percent is appropriate for this competition. The Secretary also emphasizes that, while the use of Federal funds for equipment is limited to not more than 10 percent, matching funds may be used for this purpose.

The primary purpose of this competition is to enhance, expand, and demonstrate successful training programs. If more than 10 percent of the Federal funds were to be used to purchase equipment, the intended purpose of the projects would be diminished. This restriction will help ensure that the funds available are used where they are needed most to train students.

Projects funded under the Cooperative Demonstration Program must be capable of wide replication. If a large percentage of Federal funds are used to purchase equipment, the possibilities for replication become limited. The Secretary therefore, believes it is necessary to limit the use of Federal funds for equipment purchases, to ensure that project replication is possible and to improve accountability of funds for direct training of students.

Changes: None.

Absolute Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only model projects that demonstrate ways in which public agencies in vocational education and the private sector can work together effectively to assist vocational education students who are criminal offenders under the supervision of the justice system to attain the advanced level of skills they need to make a successful transition from correctional education programs to productive employment including—

(a) Work experience or apprenticeship programs;

(b) Transitional worksite job training for vocational education students that is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

(c) Placement services in occupations that the students are preparing to enter;

(d) If practical, projects that will benefit the public, such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas; or

(e) Employment-based learning programs.

Required Activities

The Secretary requires that any projects funded under this competition—

(a) Coordinate with community agencies that furnish transitional supportive services to criminal offenders such as individual and family counseling, housing assistance, transportation, and social and cultural activities;

(b) Include a well-designed staff inservice education component to insure the effective implementation of the program;

(c) Address the special learning needs of offenders;

(d) Use applied learning strategies to teach life skills, jobs skills, and literacy;

(e) If applicable, provide for a transition from institutional environments to community settings;

(f) Address State and local labor shortages and consult the State Occupational Information Coordinating Committee or State Labor Market Information Unit in making this determination; and

(g) Must submit proof of committed partnerships between public agencies and the private sector. The definitions of "private" and "public" contained in 34 CFR 77.1 do not include entities under the supervision or control of the Federal Government; thus, Federal entities, including Federal prisons, are not eligible members of the partnerships required by 34 CFR 426.4(b).

This program activity is authorized by section 420A(a)(2) of the Perkins Act (Pub. L. 101–392, 104 Stat. 753 (1990)).

Invitational Priorities

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1), an application that meets these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Advanced Technologies

Projects that incorporate the use of interactive instructional technologies, such as distance learning, in the context of both student training and staff inservice training.

Invitational Priority 2—Community Corrections

Projects that provide integrated vocational and academic education to individuals on probation or parole in community corrections.

Invitational Priority 3—Juvenile Justice Education

Projects that provide integrated vocational and academic education to students in the juvenile justice system. This may include youth placed in detention centers, training schools, boot camps, or community-based programs.

Definitions

As used in this notice—

"Applied learning" is actively student-oriented, characterized by lively classroom discussions, absorbing group projects, meaningful homework assignments, laboratory experiments, live and videotaped presentations, and other hands-on activities. The purpose of applied learning is to create an environment that actively engages students and teachers in a collaborative learning process.

"Community corrections" refers to programs serving probationers and parolees.

"Life skills" includes self-development, communication skills, job development, and education.

"Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems, at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and to develop one's knowledge and potential.

Criteria for Evaluating Applications

For the FY 1995 grant competition under the Cooperative Demonstration program (Correctional Education) only, the Secretary uses the selection criteria and assigned points in 34 CFR 426.21 with the exception of 34 CFR 426.21(a) and (b), which are replaced with the following:

(a) *Program factors.* (25 points) The Secretary reviews the application to assess the quality of the proposed project, including the extent to which the proposed project will provide—

(1) Integrated academic and vocational activities that reflect current and projected labor market trends and are based upon the Secretary of Labor's

Commission on Achievement of Necessary Skills (SCANS) report recommendations;

(2) Transition from correctional education programs to productive employment including one or more of the following:

(i) Work experience or apprenticeship projects.

(ii) Transitional worksite job training for vocational education students that is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient.

(iii) Placement services in occupations that the students are preparing to enter.

(iv) If practical, projects that will benefit the public, such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas.

(v) Employment-based learning programs.

(3) Post-sentence transitional services and follow-up assistance;

(4) Interdisciplinary staff in-service education that includes security personnel;

(5) Inmate assessment that addresses academic, vocational and special learning needs;

(6) Ongoing occupational counseling to assist with the development of an individual vocational plan;

(7) Coordination with community agencies that furnish transitional supportive services to criminal offenders such as individual and family counseling, housing assistance, transportation, and social and cultural activities;

(8) Coordination with the State Occupational Information Coordinating Committee or State Labor Market Information Unit in determining State and local labor shortages; and

(9) Adequate and appropriate involvement and cooperation of the public and private sectors in the projects, including—

(i) A clear identification of the public and private sector involvement in the planning of the project;

(ii) A description of public and private sector involvement in the planning of the project including letters of commitment; and

(iii) A description of public and private sector involvement in the operation of the project.

(b) *Educational significance.* (10 points) The Secretary reviews each application to determine the extent to which the applicant proposes—

(1) Project objectives that contribute to the improvement of education for criminal offenders;

(2) To use unique and innovative techniques to produce benefits that address educational problems and needs that are of national significance; and

(3) To base the proposed project on successfully designed, established, and operated model vocational education programs that include components similar to the components required by this program, as evidenced by empirical data that demonstrate impact from those programs in factors such as—

(i) Student performance and achievement;

(ii) GED completion; and

(iii) Post-sentence employment or enrollment in education or training programs or both.

Other Requirements

Purchase of Equipment

The projects funded under this competition may expend up to 10 percent of Federal funds for equipment as defined in 34 CFR 74.132 and 80.3.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR Parts 400 and 426.

Program Authority: 20 U.S.C. 2420a.

(Catalog of Federal Domestic Assistance Number 84.199D Cooperative Demonstration Program)

Dated: July 6, 1994.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 94–16902 Filed 7–12–94; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.199D]

Cooperative Demonstration Program (Correctional Education); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Cooperative Demonstration Program (Correctional Education) provides financial assistance for the development of model projects that would demonstrate successful cooperation between the private sector and public agencies in vocational education programs that serve criminal offenders under the supervision of the criminal justice system.

Eligible Applicants: (1) State educational agencies; (2) local educational agencies; (3) postsecondary educational institutions; (4) institutions of higher education; and (5) other public and private agencies, organizations, and institutions.

Deadline for Transmittal of Applications: September 2, 1994.

Deadline for Intergovernmental Review: November 1, 1994.

Available Funds: $2,000,000.

Estimated Range of Awards: $300,000– $600,000.

Estimated Average Size of Awards: $500,000 for project period.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR Parts 400 and 426.

Priorities

The priorities in the notice of final priority, required activities, and selection criteria for the Cooperative Demonstration Program (Correctional Education), as published elsewhere in this issue of the **Federal Register**, apply to this competition.

Selection Criteria

For the FY 1995 grant competition (for awards to be made in FY 1995 using FY 1994 funds) under the Cooperative Demonstration Program (Correctional Education), the Secretary uses the following selection criteria to evaluate applications for new grants for this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Program factors.* (25 points) The Secretary reviews the application to assess the quality of the proposed project, including the extent to which the proposed project will provide—

(1) Integrated academic and vocational activities that reflect current and projected labor market trends and are based upon the Secretary of Labor's Commission on Achievement of Necessary Skills (SCANS) report recommendations;

(2) Transition from correctional education programs to productive employment including one or more of the following:

(i) Work experience or apprenticeship projects.

(ii) Transitional worksite job training for vocational education students that is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient.

(iii) Placement services in occupations that the students are preparing to enter.

(iv) If practical, projects that will benefit the public, such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas.

(v) Employment-based learning programs.

(3) Post-sentence transitional services and follow-up assistance;

(4) Interdisciplinary staff in-service education that includes security personnel;

(5) Inmate assessment that addresses academic, vocational and special learning needs;

(6) Ongoing occupational counseling to assist with the development of an individual vocational plan;

(7) Coordination with community agencies that furnish transitional supportive services to criminal offenders such as individual and family counseling, housing assistance, transportation, and social and cultural activities;

(8) Coordination with the State Occupational Information Coordinating Committee or State Labor Market Information Unit in determining State and local labor shortages; and

(9) Adequate and appropriate involvement and cooperation of the public and private sectors in the projects, including—

(i) A clear identification of the public and private sector involvement in the planning of the project;

(ii) A description of public and private sector involvement in the planning of the project including letters of commitment; and

(iii) A description of public and private sector involvement in the operation of the project.

(b) *Educational significance.* (10 points) The Secretary reviews each application to determine the extent to which the applicant proposes—

(1) Project objectives that contribute to the improvement of education for criminal offenders;

(2) To use unique and innovative techniques to produce benefits that address educational problems and needs that are of national significance; and

(3) To base the proposed project on successfully designed, established, and operated model vocational education programs that include components similar to the components required by this program, as evidenced by empirical data that demonstrate impact from those programs in factors such as—

(i) Student performance and achievement;

(ii) GED completion; and

(iii) Post-sentence employment or enrollment in education or training programs or both.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the project design, especially the establishment of measurable objectives for the project that are based on the project's overall goals;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project over the award period;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the plan—

(1) Is clearly explained and is appropriate to the project;

(2) To the extent possible, is objective and will produce data that are quantifiable;

(3) Identifies expected outcomes of the participants and how those outcomes will be measured;

(4) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results;

(5) Will provide a comparison between intended and observed results, and lead to the demonstration of a clear link between the observed results and the specific treatment of project participants; and

(6) Will yield results that can be summarized and submitted to the Secretary for review by the Department's Program Effectiveness Panel as defined in 34 CFR 400.4(b).

(e) *Demonstration and dissemination.* (10 points) The Secretary reviews each application for information to determine the effectiveness and efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(2) Disseminating the results of the project in a manner that would meet the requirement in 34 CFR 426.31.

(3) Identification of target groups and provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(4) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(5) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(6) Provisions for assisting others to adopt and successfully implement the

project or methods and techniques used by the project.

(f) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to project requirements, of the project director;

(ii) The qualifications, in relation to project requirements, of each of the other key personnel to be used in the project;

(iii) The appropriateness of the time that each person referred to in paragraphs (f)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii) of this section, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project; and

(3) Proposes using non-Federal resources available from appropriate employment, training, and education agencies in the State to provide project services and activities and to acquire project equipment and facilities.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to devote adequate resources to the project. The Secretary considers the extent to which the—

(i) Facilities that the applicant plans to use are adequate; and

(ii) Equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the commitment to the project, including whether the—

(i) Uses of non-Federal resources are adequate to provide project services and activities, especially resources of community organizations and State and local educational agencies; and

(ii) Applicant has the capacity to continue, expand, and build upon the project when Federal assistance under this part ends.

Cost Sharing

A recipient of an award under this competition must provide not less than 25 percent of the total cost (the sum of the Federal and non-Federal shares) of the project it conducts. The non-Federal share may be in the form of cash or in-kind contributions, including the fair market value of facilities, overhead, personnel, and equipment.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on May 3, 1994 (59 FR 22904–22905).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.199D, U.S. Department of Education, Room 4161, 400 Maryland Avenue, S.W., Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.199D), Washington, D.C. 20202–4725 or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, D.C. time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.199D), Room 3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C. 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

To apply for an award under this program competition, applications must be organized in the following order and include the following five parts:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.
Part III: Budget Narrative.
Part IV: Program Narrative.
Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL-A) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

All forms and instructions are included as Appendix A of this notice.

To assist potential applicants, questions and answers pertaining to this program are included as Appendix B.

All applicants must submit ONE *original signed application*, including ink signatures on all forms and assurances and six *copies of the application*. Please mark each application as original or copy. Local or State agencies may choose to submit two copies with the original.

No grant may be awarded unless a *completed* application form has been received. (20 U.S.C. 1241–1391)

For Further Information Contact: Gail M. Schwartz, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512—MES), Washington, DC 20202–7242. Telephone (202) 205–5621. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Gopher Server at GOPHER.ED.GOV (under announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 2420(a).

Dated: July 6, 1994.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

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Appendix A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 1 9 9D

TITLE: Cooperative Demonstration Program (Correctional Education)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C	D
1. Personnel				
2. Fringe Benefits (Rate %)				
3. Travel				
4. Equipment				
5. Supplies				
6. Contractual				
7. Other				
8. Total, Direct Cost (lines 1 through 7)				
9. Indirect Cost (Rate %)				
10. Training Costs/Stipends				
11. TOTAL, Federal Funds Requested (lines 8 through 10)				

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C	D
1. Cash Contribution				
2. In-Kind Contribution (only costs specifically for this project)				
3. TOTAL, Cost Sharing (Rate %)				

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; Column C to record the third 12-month budget period; and Column D to record the fourth 12-month budget period.

Section C - Budget Estimates (Federal Funds Only) For Balance of Project Budget Periods

Second	Third	Fourth	Fifth

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personnel property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

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Instructions for Part III—Budget Narrative

Prepare a detailed Budget Narrative for the first year of the project that justifies, and/or clarifies the budget figures shown in Section A. Explain:

1. How personnel costs are calculated—provide yearly and/or hourly rates; for other than full-time staff, provide hours per day, week, month, and year.
2. The basis used to estimate certain costs (professional personnel, consultants, travel, indirect costs) and any other cost that may appear unusual;
3. How the major cost items relate to the proposed project activities (refer to application page);
4. The costs of the project's evaluation component;
5. What matching occurs in each budget category; and provide estimated budget totals for the second, third, fourth, and fifth years of the project.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the *selection criteria.* Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly requests you limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively *ALL* pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

You are advised that:

(a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (EDGAR Sec. 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments which pertain to the established technical review criteria, such as commitment and resources.

Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0013, Washington, D.C. 20503.

(Information collection approved under OMB control number 1830–0013. Expiration date: 2/28/95.)

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C.1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the requirements of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous preapplication consultation is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we will request the project directors and evaluators of funded projects to attend an annual project directors meeting, you should include annual trips for each to Washington, DC., in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC. 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act) (Public Law 101–392, 104 Stat. 753 (1990)).

(2) State Vocational and Applied Technology Education Programs and National Discretionary Programs of Vocational Education Final Regulations, 34 CFR Parts 400 and 426.

(3) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Q. What are the Department of Education's Program Effectiveness Panel and National Diffusion Network?

A. The Program Effectiveness Panel (PEP) is the Department of Education's primary mechanism for validating the effectiveness of educational programs developed by schools, universities, and other agencies. The National Diffusion Network (NDN) is a Federally funded dissemination system that helps public and private schools, colleges, and other educational institutions improve by sharing successful education programs, products, and processes.

Regulations governing PEP and NDN are codified at 34 CFR Parts 785–789. For information about PEP, prospective applicants may wish to read *Making the Case: Evidence of Effectiveness in Schools and Classrooms*, which contains criteria and guidelines for submitting project results to PEP. This publication, as well as information about NDN, is available from RMC Research Corporation, 1000 Market Street, Portsmouth, New Hampshire 03801. Telephone 1–800–258–0802. RMC Research Corporation can also provide information about consultants

who have conducted evaluations that have been approved by PEP.

[FR Doc. 94–16903 Filed 7–12–94; 8:45 am]
BILLING CODE 4000–01–P

federal register

Wednesday
July 13, 1994

Part III

Department of Education

Notices of Fund Availability and Inviting Applications for a New Award Under the Knowledge Dissemination and Utilization Program

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of a final funding priority for fiscal year 1994–1995 for the Knowledge Dissemination and Utilization Program.

SUMMARY: The Secretary announces a funding priority for the Knowledge Dissemination and Utilization (D&U) Program under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1994–1995. The Secretary takes this action to ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of individuals with disabilities and their families.

EFFECTIVE DATE: This priority take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland. Telephone: (202) 205–9739. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

SUPPLEMENTARY INFORMATION: This notice contains a priority for a project to support the international exchange of information and experts.

Authority for the D&U program is contained in sections 202 and 204(a) and 204(b)(6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations.

This priority supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Under the regulations for this program (see 34 CFR 355.32), the Secretary may establish research priorities by reserving funds to support particular research activities.

NIDRR is in the process of developing a revised long-range plan. The priority in this notice is consistent with the long-range planning process.

On May 16, 1994 the Secretary published a notice of proposed priorities in the **Federal Register** at (59 FR 25528). The Department of Education received 12 letters commenting on the proposed priorities. Modifications were made to the priorities as a result of those comments. The comments, and the Secretary's responses to them, are discussed in an appendix to this notice.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

PRIORITY: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this program only applications that meet this absolute priority:

Priority: International Exchange of Information and Experts

Background

Since 1973, NIDRR has had statutory authority to conduct international research and development and to exchange rehabilitation and special education experts with other nations. International research and development activities significantly can change the perspectives of service providers and researchers, provide data for the evaluation of domestic programs, and offer new insights and new practices that can solve some of the old rehabilitation problems. Learning about the technical and cultural aspects of other countries' rehabilitation practices may assist U.S. rehabilitation practioners to improve the effectiveness of the services they provide, especially for minority and immigrant populations.

In the past, NIDRR approached international activities in two ways. NIDRR funded two projects to facilitate fellowships of non-governmental experts to other countries to gather data on practices, legislation, and policy. NIDRR also engaged in international activities on a government-to-government basis, participating in international policy and data generation through international organizations such as the U.N., Federal agencies such as the Department of State and the Peace Corps, direct grants to foreign research agencies, participation in foreign research consortia and conferences, and facilitation of site visits and study tours for foreign visitors.

In order to enhance the impact of international activities on the U.S. rehabilitation field, NIDRR now seeks to fund a single project that will facilitate the exchange of both domestic and foreign experts in rehabilitation research and technical assistance; facilitate international conferences; disseminate useful information to rehabilitation personnel and researchers, independent living centers, and families; assist in relevant site visitations by foreign government officials; and develop training modules that increase participation in international activities by rehabilitation practitioners, policymakers, and individuals with disabilities.

Priority

A project on the international exchange of information and experts shall—

- Gather information on international rehabilitation issues, legislation, and programs, and maintain a database of such information that is available to relevant research projects and training projects, including those supported by NIDRR, the Office of Special Education Programs (OSEP), and the Rehabilitation Services Administration (RSA);
- Include individuals with disabilities to the maximum extent possible in all project activities;
- Facilitate small annual conferences to explore international issues or to share rehabilitation information and data with other governments;
- Assist foreign and domestic professionals or consumers to plan trips by identifying potential sites and contact persons at each site;
- Establish an international exchange of research and technical assistance experts between foreign nations and the U.S.;
- Share information with other Federal government agencies in order to assist them in the development of their research priorities in the area of disability;
- Publish and disseminate data and information to relevant target audiences on relevant policy issues and legislation, which are identified in conjunction with NIDRR;
- Develop training activities and materials to sensitize rehabilitation personnel, including special education personnel, to cultural differences that can affect rehabilitation needs and approaches; and
- Develop training activities and materials on comparative research techniques, bilateral consultation and technical assistance, utilizing the different international and cultural perspectives.

APPLICABLE PROGRAM REGULATIONS: 34 CFR Parts 350 and 355. Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133D, Knowledge Dissemination and Utilization Program)

Dated: June 7, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Analysis of Comments and Changes

The Department received 12 letters in response to the Notice of Proposed Priority. This Appendix contains an analysis of the comments and of the changes in the priority since the publication of the Notice of Proposed Priority. The Appendix does not address technical changes, suggested changes the Secretary is not legally authorized to make under applicable statutory authority, and comments that are outside the scope of the proposed priority such as the size of the award, the length of the project period, or the number of projects that will be awarded.

Comment: One commenter suggested that the project research employment systems in the other countries.

Discussion: The Secretary believes that applicants may propose to address employment systems that are related to rehabilitation issues, legislation, and programs. The Secretary believes that applicants should be given the discretion to propose issues that the project will address.

Changes: None.

Comment: One commenter suggested that the project should work in collaboration with other countries.

Discussion: The Secretary agrees and points out that the priority requires the project to "Establish an international exchange of research and technical assistance experts between foreign nations and the U.S." The Secretary does not believe any further requirements are necessary.

Changes: None.

Comment: Three commenters observed that the requirement to maintain a library was a significant expense that would consume a disproportionate amount of the project's resources. The commenters suggested requiring that the project maintain a database instead of a library.

Discussion: The Secretary agrees that maintaining a library may be beyond the resources available to the project. The Secretary also agrees with the suggestion to require the project to maintain a database instead of a library.

Changes: The project is required to maintain a database instead of a library.

Comment: Two commenters suggested that the project's various activities address policy as well as programmatic issues.

Discussion: The Secretary believes that the priority provides the project with the authority to address policy and programmatic issues. The Secretary does not believe that any further requirements are necessary.

Changes: None.

Comment: Two commenters observed that the requirement to "Assist both foreign and domestic professionals or consumers to plan trips * * * through the development and listing of potential sites" was a significant expense that would consume a disproportional amount of the project's resources.

Discussion: The Secretary believes that the requirement to *develop* (emphasis added) and list potential sites may be interpreted to require the project to undertake activities that are beyond the resources that will be available to the project. The Secretary believes that the project should assist professionals and consumers to plan trips by identifying potential sites and contact persons at each site.

Changes: The project is required to assist foreign and domestic professionals or consumers to plan trips by identifying potential sites and contact persons at each site.

Comment: One commenter recommended that the priority be revised to require that the majority of people who are exchanged be individuals with disabilities. A second commenter observed that project activities that are directed by individuals with disabilities are the most effective.

Discussion: The Secretary believes that the project should include individuals with disabilities to the maximum extent possible in all aspects of the project.

Changes: The priority has been revised to require that the project include individuals with disabilities to the maximum extent possible in all project activities.

Comment: One commenter suggested that the project provide training to mainstream international educational exchange programs on equalizing opportunities for young persons with disabilities to participate in existing international educational opportunities.

Discussion: The Secretary recognizes the need to increase opportunities for young persons with disabilities to participate in existing international educational opportunities. However, the Secretary believes that such an activity is outside the scope of the priority.

Changes: None.

Comment: One commenter suggested that the international exchange of experts and technical assistance should address skills needed for creating policy and writing and passing legislation.

Discussion: The Secretary believes that the priority authorizes an applicant to address creating policy and writing and passing legislation that bears upon rehabilitation issues. The Secretary does not believe that any further requirements are necessary.

Changes: None.

Comment: One commenter suggested that special emphasis should be given to activities that teach technical skills and provide employment opportunities for individuals with disabilities and that produce assistive technology that will improve access for individuals with disabilities. The commenter also suggested that special emphasis should be given to leadership training activities for individuals with disabilities and to women with disabilities in exchanges of information and expertise.

Discussion: The Secretary believes that the areas of special emphasis suggested by the commenter are authorized by the priority. However, the Secretary believes that applicants should have the discretion to propose a special emphasis on one or more selected issues.

Changes: None.

Comment: One commenter suggested revising the priority to clarify whether the primary purpose of the project is to acquire knowledge which can be applied to the U.S., and not to disseminate knowledge from the U.S. to other countries.

Discussion: The Secretary points out that the Background statement indicates that the purpose of this project is to "assist U.S. rehabilitation practioners to improve the effectiveness of the services they provide * * *" and "enhance the impact of international activities on the rehabilitation field." The Secretary agrees there is a need to clarify that the reference to the rehabilitation field is to the U.S.

Changes: The Background statement has been revised to clarify that the purpose of the project is to enhance the impact of international activities on the U.S. rehabilitation field.

Comment: One commenter suggested that the project should use the potential for continued relationships at the institutional level as a criterion for selecting individuals for an exchange. The same commenter suggested that "provision should be made" for funding joint projects of mutual benefit to U.S. and foreign institutions, "taking advantage of previous contacts made through earlier study visits."

Discussion: The Secretary believes that on-going relationships at the institutional level and joint projects would be desirable outcomes. However, the Secretary believes that applicants should be given the discretion to propose the process and the criteria that

will be used to select projects and individuals for an exchange.

Changes: None.

Comment: One commenter suggested revising the priority to encourage "greater integration of the international program with NIDRR's domestic program."

Discussion: The Secretary believes that the project should make its database available to domestic research projects and training projects, including those supported by NIDRR, OSEP, and RSA.

Changes: The priority has been revised to require the project to make its database on international rehabilitation issues, legislation, and programs available to relevant research projects and training projects, including those supported by NIDRR, the Office of Special Education Programs (OSEP), and the Rehabilitation Services Administration (RSA).

[FR Doc. 94–16905 Filed 7–12–94; 8:45 am]
BILLING CODE 4000–01–P

[CFDA No.: 84.133D]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research

Notice Inviting Applications for a New Award Under the Knowledge Dissemination and Utilization Program for Fiscal Year (FY) 1994

NOTE TO APPLICANTS: This notice is a complete application package. The notice contains information, application forms, and instructions needed to apply for a grant under this competition. The final priority for the Knowledge Dissemination and Utilization program is published in this issue of the **Federal Register**. This consolidated application package includes the closing date, estimated funding, and application forms necessary to apply for an award under this program's competition. Potential applicants should consult the statement of the final priority published in this issue to ascertain the substantive requirements for their applications.

The estimated funding level in this notice does not bind the Department of Education to make awards or to any specific number of awards or funding levels.

Note: The Rehabilitation Act Amendments of 1992 require that each applicant for a project under this competition must demonstrate in its application how it will address the needs of individuals from minority backgrounds who have disabilities. Before your application can be reviewed, it must include this description. Applications for which this information is not received will not be reviewed.

Successful applicants that provide services to individuals with disabilities will be required to advise these individuals, or as appropriate, the parents, family guardians, advocates, or authorized representatives of these individuals, of the availability and purposes of the State Client Assistance Program (CAP), including information on means of seeking assistance under such programs. A list of State CAPs will be provided to successful applicants when they are notified of their award.

This notice supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

If you need further information about these requirements, please contact Betty Jo Berland at (202) 205–9739. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: August 26, 1994.

APPLICATIONS AVAILABLE: July 13, 1994.

AVAILABLE FUNDS: $400,000.

ESTIMATED NUMBER OF AWARDS: 1.

PROJECT PERIOD: Up to 60 months.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR Parts 350 and 355; and (c) the notice of final priority as published elsewhere in this issue of the **Federal Register**.

PURPOSE OF PROGRAM: The Knowledge Dissemination and Utilization program is designed to support activities that ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of individuals with disabilities and their families. This notice invites applications for a project to support the international exchange of information and experts. The final priority for this award is published in this issue of the **Federal Register**. Potential applicants should consult the statement of the final priority published in this issue to ascertain the substantive requirements for their applications.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under this program.

(a) *Potential Impact of Outcomes:* Importance of Program (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

(2) The research is likely to produce new and useful information (research activities only);

(3) The need and target population are adequately defined;

(4) The outcomes are likely to benefit the defined target populations;

(5) The training needs are clearly defined (training activities only);

(6) The training methods and developed subject matter are likely to meet the defined need (training activities only); and

(7) The need for information exists (utilization activities only).

(b) *Potential Impact of Outcomes:* Dissemination/Utilization (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The research results are likely to become available to others working in the field (research activities only);

(2) The means to disseminate and promote utilization by others are defined;

(3) The training methods and content are to be packaged for dissemination and use by others (training activities only); and

(4) The utilization approach is likely to address the defined need (utilization activities only).

(c) *Probability of Achieving Proposed Outcomes; Program/Project Design* (Weight 5.0). The Secretary reviews each application to determine to what degree—

(1) The objectives of the project(s) are clearly stated;

(2) The hypothesis is sound and based on evidence (research activities only);

(3) The project design/methodology is likely to achieve the objectives;

(4) The measurement methodology and analysis is sound;

(5) The conceptual model (if used) is sound (development/demonstration activities only);

(6) The sample populations are correct and significant (research and development/demonstration activities only);

(7) The human subjects are sufficiently protected (research and development/demonstration activities only);

(8) The device(s) or model system is to be developed in an appropriate environment;

(9) The training content is comprehensive and at an appropriate level (training activities only);

(10) The training methods are likely to be effective (training activities only);

(11) The new materials (if developed) are likely to be of high quality and uniqueness (training activities only);

(12) The target populations are linked to the project (utilization activities only); and

(13) The format of the dissemination medium is the best to achieve the desired result (utilization activities only).

(d) *Probability of Achieving Proposed Outcomes:* Key Personnel (Weight 4.0). The Secretary reviews each application to determine to what degree—

(1) The principal investigator and other key staff have adequate training and/or experience and demonstrate appropriate potential to conduct the proposed research, demonstration, training, development, or dissemination activity;

(2) The principal investigator and other key staff are familiar with pertinent literature and/or methods;

(3) All required disciplines are effectively covered;

(4) Commitments of staff time are adequate for the project; and

(5) The applicant is likely, as part of its non-discriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) There is a mechanism to evaluate plans, progress and results;

(2) The evaluation methods and objectives are likely to produce data that are quantifiable; and

(3) The evaluation results, where relevant, are likely to be assessed in a service setting.

(f) *Program/Project Management: Plan of Operation* (Weight 2.0). The Secretary reviews each application to determine to what degree—

(1) There is an effective plan of operation that insures proper and efficient administration of the project(s);

(2) The applicant's planned use of its resources and personnel is likely to achieve each objective;

(3) Collaboration between institutions, if proposed, is likely to be effective; and

(4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(g) *Program/Project Management: Adequacy of Resources* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program/Project Management: (Budget and Cost Effectiveness* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The budget for the project(s) is adequate to support the activities;

(2) The costs are reasonable in relation to the objectives of the projects(s); and

(3) The budget for subcontracts (if required) is detailed and appropriate.

Eligible Applicants: Parties eligible to apply for grants under this program are public and private nonprofit and for-profit organizations, including institutions of higher education and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 761a and 762.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 424A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non—Non Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free WorkPlace Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form ED 80–0014) and instructions. (NOTE: ED Form ED–80–0014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

Information about the Department's funding opportunities, including copies

of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED BOARD), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dianne Villines, U.S. Department of Education, Room 3417 Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202–2704. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Program Authority: 29 U.S.C. 760–762.

Dated: June 7, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

Applicants in the FIR, and Innovation grants programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs.

8. Can NIDRR Staff Advise Me Whether My Project Is of Interest to NIDRR or Likely To Be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That My Application Will be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including the title of the priority to which they are responding.

10. How Soon After Submitting My Application Can I Find Out if It Will be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR to Find Out If My Application is Being Funded?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application Is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted for each year of the project and there will be negotiations on the budget each year.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction *Preapplication* ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

[ ][ ] – [ ][ ][ ][ ][ ][ ][ ]

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

[ ][ ] – [ ][ ][ ]

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

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Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, D.C. 20503.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3),

Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Wednesday
July 13, 1994

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 941

Public Housing Development; Major Reconstruction of Obsolete Public Housing; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 941

[Docket No. R–94–1737; FR–3621–P–01]

RIN 2577–AB41

Public Housing Development; Major Reconstruction of Obsolete Public Housing (MROP)

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a new subpart F to the Department's regulations at 24 CFR part 941, which govern public housing development by public housing agencies. The new subpart F would set forth the requirements and procedures applicable to the major reconstruction of obsolete public housing (MROP) projects. This proposed rule also would implement the provisions of section 111 of the Housing and Community Development Act of 1992 which pertain to MROP projects. The specific provisions that would comprise subpart F are discussed in the Supplementary Information section of this document.

DATES: Comment Due Date: September 12, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. Comments should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Director, Office of Construction, Rehabilitation, and Maintenance, Public and Indian Housing, Department of Housing and Urban Development, Room 4230, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 708–1015. (This is not a toll-free number.) Hearing- or speech-impaired individuals may contact this office via TDD by calling (202) 708–9300 (which is not a toll-free number) or 1–800–877–8339 (which is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in part 941 have been previously approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, and assigned the stated OMB approval numbers:

New rule section	Rule section	Approval No.
941.606	941.302, 402, 403, 406.	2577–0033, 0164, 0104.
941.607	941.404	2577–0033, 0024, 0036.

II. Background

Sections 4 and 5 of the United States Housing Act of 1937 (42 U.S.C. 1437b, 1437c and 1437g) (the Act) authorize the Department to provide technical and financial assistance to public housing agencies (PHAs) for the development of low income housing projects, including the major reconstruction of obsolete public housing projects. The Department's regulations at 24 CFR part 941 establish: the requirements and procedures for the development of low-income housing (excluding Indian housing) by PHAs; development methods to be utilized for public housing projects; PHA eligibility requirements; the application and proposal procedures and other program requirements, which include a number of Federal statutory and administrative requirements applicable to public housing development.

The Department will in the future publish under a separate proposed rule comprehensive changes to part 941 that reflect the Department's redesign of the public housing development program.

This proposed rule is more limited and would only add a new subpart F to the existing part 941 to address the requirements and procedures applicable to the major reconstruction of obsolete public housing (MROP) projects. Section 111(a) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (the 1992 Act) amends section 5(j)(2) of the Act regarding MROP projects. Section 5(j)(2), among other things, provides a definition for "obsolete public housing project or building"; specifies that funding for MROP will be distributed on the basis of competition; and lists the criteria by which PHAs will be awarded funds. In accordance with sections 111(c) and 191 of the 1992 Act, which provide for rulemaking to implement section 111, this proposed rule would implement the provisions of section 111(a). The regulatory sections that would comprise subpart F are as follows:

Section 941.601. This section would provide that subpart F sets forth the basic policies and general requirements applicable to MROP projects. With respect to applicability, this section would provide that, unless otherwise stated, subpart F would apply to all MROP projects funded in Federal Fiscal Year 1995 and thereafter.

Section 941.602. This section would address MROP funding by providing that any notice of funding availability (NOFA) issued under 24 CFR part 941, subpart F, will reflect the current statutory requirements applicable to MROP projects.

Section 941.603. This section would describe the criteria a project must meet to be eligible for MROP funding. Some of the eligibility requirements, listed in this section, include the following: the project must be a rental project, and not a homeownership project; the project must have been financed under section 5 of the Act and be under an Annual Contributions Contract (ACC), or be a section 23 bond financed leased housing project which meets certain conditions; the existing project must have had an approved actual development cost certificate (ADCC) for five years before the application submission deadline; and the project must be determined to be obsolete. With respect to the determination of obsolete, the requirements of section 5(j)(2) of the Act, as added by section 111 of the 1992 Act are being incorporated.

In accordance with section 5(j)(2)(E) of the Act, § 941.603 would prohibit MROP assistance to any project or building assisted within five years of the MROP application by Comprehensive Improvement Assistance Program (CIAP) or Comprehensive Grant Program (CGP) modernization funds under section 14 of the Act (through inclusion in an approved "annual statement of work"). A proposed MROP which received emergency modernization funding within the time frame is excluded from the five-year prohibition stated above.

Section 941.604. This section would address the limitations imposed on the use of MROP funds.

Section 941.605. This section would describe the general requirements applicable to the MROP program; these include (1) those set forth in subpart A of part 941, with the exception that MROP projects may only be developed by: (a) sealed bid method with award to

the lowest responsible bidder; or (b) competitive proposal method whereby the PHA would execute a fixed price contract in which the contractor would be responsible for design of specific work items in the Request for Proposals, soliciting and contracting for construction work, contract administration and construction administration and construction inspection; the contract would either provide progress payments, or a lump sum payment after successful completion of all work; and (2) the requirements set forth in subpart B, with certain exceptions. With respect to the new MROP cost limit system required by section 5(j)(2)(D) of the Act, a methodology is proposed in this section.

Section 941.606. This section would describe the application submission requirements of the MROP program.

Section 941.607. This section would address the MROP proposal and would provide that MROP proposals must comply with the provisions of § 941.404.

Section 941.608. This section would address MROP project development and would provide for compliance with the procedures and requirements of subpart E, except as modified by § 941.608.

In the regulatory text that follows the preamble section "Other Matters," the reader should note that the terms "Act" and "ACC" are not defined in subpart F, because these terms are defined in subpart A of part 941. The "Act" refers, as previously noted, to the United States Housing Act of 1937, and "ACC" refers to Annual Contributions Contract.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication, and, by approving it, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The rule's major effect is on public housing agencies (PHAs) which are state and local governmental entities. The proposed rule adds a new subpart for the major reconstruction of obsolete public housing projects, as required by the Act, and incorporates provisions requested by industry groups; as such, it is anticipated that it will be considered beneficial to PHAs.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, *Federalism*, has determined that this proposed rule would not have a substantial, direct effect on the States or their political subdivisions or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. No significant change in the relationships or responsibilities of the various levels of government will result from this proposed rule.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this proposed rule would not have a 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.

Regulatory Agenda

This proposed rule was listed as sequence number 1684 in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20469) under Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance Programs

The Catalog of Federal Domestic Assistance Program title and number is 14.850, Public and Indian Housing.

List of Subjects in 24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

Accordingly, 24 CFR part 941 would be amended as follows:

PART 941—PUBLIC HOUSING DEVELOPMENT

1. The authority citation for part 941 would continue to read as follows:

Authority: 42 U.S.C. 1437b, 1437c, and 1437g; 42 U.S.C. 3535(d).

2. A new subpart F, consisting of §§ 941.601–941.608, would be added to read as follows:

Subpart F—Major Reconstruction of Obsolete Public Housing (MROP) Projects

Sec.

941.601 Scope and applicability.
941.602 MROP funding.
941.603 MROP eligibility criteria.
941.604 Uses of MROP funding.
941.605 General program requirements.
941.606 MROP application.
941.607 MROP proposal.
941.608 MROP project development.

Subpart F—Major Reconstruction of Obsolete Public Housing (MROP) Projects

§ 941.601 Scope and applicability.

(a) *Scope.* This subpart F sets forth the basic policies and general requirements for the public housing Major Reconstruction of Obsolete Public Housing (MROP) projects program originally instituted pursuant to the FY 1986 HUD-Independent Agencies Appropriations Act, and thereafter covered by section 5(j), as amended by section 111 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437c(j)(2)). Unless otherwise stated in this subpart F, subparts A through E of part 941 apply to MROPs.

(b) *Applicability.* Unless otherwise stated herein, this subpart applies in its entirety to all MROP projects funded in FY 1995 and thereafter, beginning with their current development processing and monitoring stage. All MROP projects funded prior to the effective date of this regulation shall continue to comply with the criteria on which their selection for funding was based.

(c) *PHA Eligibility.* PHAs eligible for MROP funding are those which have the required legal authority and local cooperation stated under § 941.201. An eligible PHA may include a troubled PHA, and if included, the criteria which a troubled PHA must meet to be eligible for funding will be specified in the notice of funding availability issued in accordance with this subpart.

§ 941.602 MROP funding.

While section 5(j)(2) of the Act limits MROP funding to no more than 20 percent of available funding, recent Appropriation Acts have provided that HUD may approve applications for development and/or MROP based on applications submitted, or pursuant to a statutory funding set-aside. As a result, any notice of funding availability (NOFA) issued pursuant to 24 CFR part 941 will reflect the applicable statutory requirements.

§ 941.603 MROP eligibility criteria.

To be eligible for MROP funding, a project must meet the following criteria:

(a) *Rental.* The project must be rental and not homeownership.

(b) *Federally assisted PHA-owned.* The project must have been financed under section 5 of the Act and under ACC; or be a section 23 bond financed leased housing project which was converted to public housing by ACC amendment and is now covered by a cooperation agreement, has clear title vested in the PHA, and there are no legal obstacles affecting the PHA's use of the project during the required additional 40-year term of the ACC.

(c) *Five-year ADCC.* The existing project must have had an approved actual development cost certificate (ADCC) for five years or more prior to the application submission deadline of the NOFA.

(d) *Obsolete project.* The existing project must be determined to be obsolete; i.e., the project, or that portion designated to comprise the MROP project, must have design or marketability problems that have resulted in:

(1) Current vacancies of more than 25 percent of the units available for occupancy; or

(2)(i) Estimated costs for redesign, reconstruction or redevelopment (including any costs for lead-based paint abatement activities) that exceed 70 percent of the total current development cost limits for new construction of similar units in the area, but not more than 100 percent of the maximum cost based on the most recently issued MROP limits issued pursuant to section 5(j)(2)(D) of the Act (see § 941.605(b)(2)); and

(ii) The project or building has: an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood; or a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to public housing; significant security problems in and around the project; or significant physical deterioration or inefficient energy and utility systems.

(3) The deficiencies must have been determined correctable under the Comprehensive Grant Program (CGP) or the Comprehensive Improvement Assistance Program (CIAP) procedures (see 24 CFR part 968 and related issuances to ensure long-term viability).

(e) *Long-term viability.* The project must be determined to have long-term viability (i.e., a useful life with full occupancy) of more than 20 years after completion of reconstruction, and the ACC for the MROP project must remain in effect for 40 years.

(f) *MROP project composition.* (1) An MROP project may consist of one or more or all of the buildings of a single existing public housing project, provided that the funds reserved are sufficient to complete all the necessary redesign, reconstruction, or redevelopment for the entire structure(s) designated for the MROP project. Where funds available in a given year are insufficient or would require a disproportionate amount to fund all of the buildings of an existing project, staging over several years is not permitted, and the existing project must be separated by buildings (individually or in a combination) into portions to establish separate MROP projects, each to be funded separately, and each having a separate project number. The funds for each MROP project must be kept separate and may not be commingled.

(2) If a PHA submits an MROP application for an entire project and it is determined to be approvable under a NOFA published after the effective date of this regulation, but because of funding limitations only a part of the project is funded, if funds become available in a future fiscal year, additional buildings of the project may be approved for MROP without regard to vacancy, cost and viability criteria of paragraph (e) of this section under a subsequent NOFA, provided that:

(i) An application for a separate MROP project, or any portion of the project not funded, is submitted in response to a subsequent NOFA, and meets threshold approvability, and all other NOFA requirements, except for vacancy, cost and viability requirements; and

(ii) Is selected on the basis of its rating and ranking among other MROP applications submitted in response to the NOFA.

(g) *MROP with modernization.* MROP assistance may not be provided for any project or building assisted within five years of the MROP application by CGP or CIAP modernization funds under section 14 of the Act (through inclusion in an approved "annual statement of work") or HOPE VI under the FY 1993 and 1994 Appropriation Acts.

(h) *MROP with Demo/Dispo.* Demolition/disposition (demo/dispo) of existing units may be included as part of an MROP only if required to meet the long-term viability requirement; however, 75 percent of the units in the project or portion of the project which comprise the MROP application must be reconstructed. An MROP application which involves partial demo/dispo must either indicate the date that a demo/dispo application was approved by HUD, or the date the demo/dispo application was submitted. If the demo/dispo application was not approved by the date of the MROP application, the MROP application must be accompanied by evidence of the approval by the unit of general local government in which the project is located; this approval may be obtained from the Chief Executive Officer.

(i) *MROP with unit conversions.* Conversions are not subject to section 18 of the Act; however, a proposed conversion must be approved before an MROP involving a conversion may be approved, or an application for said conversion must have been submitted (see § 941.604(d)).

§ 941.604 Uses of MROP funding.

The following establish limitations on the use of MROP funds:

(a) *Management improvements.* Management improvements limited to the MROP project are eligible costs under MROP to the extent that such proposed management improvement is necessary for the viability of the project; i.e., to maintain the proposed physical improvements of the MROP project.

(b) *Development and property acquisition.* Development of additional units is an ineligible cost under MROP.

(c) *Demo/dispo and replacement.* The MROP project may include the cost of approved demo/dispo pursuant to § 941.603(h). MROP funds may not be used for replacement housing.

(d) *MROP conversion of units.* Costs of converting existing dwelling units to different bedroom sizes or to nondwelling space are eligible MROP costs only as follows:

(1) It must be demonstrated that the units proposed for conversion are in excess of the needs of the PHA and there is a greater need for the proposed converted units; and

(2) The proposed conversion must not result in a net reduction greater than that permitted under § 941.603(h).

(e) *MROP conversion of non-dwelling space.* Conversion from non-dwelling use to dwelling use is permitted under MROP. Conversion in use of non-dwelling space (e.g., community to management or vice versa) is eligible under MROP.

(f) *Duplicate funding.* The PHA shall not receive duplicate funding for the same work item or activity under any circumstance, and shall establish controls to assure that any activity, program, or project that is funded under any other HUD program, shall not be funded by MROP.

§ 941.605 General program requirements.

(a) *Subpart A.* Subpart A of part 941 is applicable to the MROP program, except that MROP projects may only be developed by:

(1) Sealed bid procurement method with award to the lowest responsible bidder; or

(2) Competitive proposal method, whereby the PHA would execute a fixed price contract in which the contractor would be responsible for design of specific work items identified in the Request for Proposals, soliciting and contracting for construction work, contract administration and construction inspection; the contract could either provide for progress payments, as in the sealed bid method, or a lump sum after successful completion of all work.

(b) *Subpart B.* Subpart B of this part applies to the MROP program, except:

(1) Since the site is already owned and the structures are already present, the following provisions of subpart B are not applicable to the MROP program: § 941.202 (concerning site and neighborhood standards); § 941.203 (a), (e) and (f) (concerning certain requirements of the design and construction standards); § 941.206 (concerning eligible properties); and § 941.405(b)(1) (concerning the section 213 review). Instead, the modernization and energy conservation standards set forth in 24 CFR part 968 are applicable and the environmental requirements must be met before an MROP application may be approved, as under CIAP (24 CFR part 968). The Intergovernmental Review under Executive Order 12372 (see § 941.405(b)(2)) must be completed before an MROP application may be approved.

(2) Pursuant to section 5(j)(2)(D) of the Act, HUD will establish limitations on the total costs for MROP recognizing the higher direct costs of MROP work as related to new development and modernization, and the requirements of § 941.204 are therefore modified. The total MROP cost (TMC) limitations which HUD establishes will be used as a maximum for the purpose of reserving the funds for MROP projects and represent the maximum TMC that may be approved and included in the ACC for an MROP project.

(i) As in the case of the total development cost (TDC) limitations under § 941.204, the TMC limitations are established for specific unit sizes (i.e., number of bedrooms) and structure types (i.e., detached, semi-detached, row, walk-up and elevator), and market areas (which are areas where trade conditions and economic influences tend to make costs substantially the same); they will be issued periodically by notice sent to all PHAs; and any donations will be treated in the same way as stated in § 941.204(d).

(ii) The TMC limitations shall be determined by doubling the average of two nationally recognized residential construction cost indices for good and sound quality housing.

(3) Since eligibility for MROP is based on different cost requirements, § 941.406(a)(1), which concerns maximum TDC at fund reservation, is modified to provide that the total MROP project cost that may be approved with HUD funds at the time of initial fund reservation, is limited to at least 70 percent of the maximum TDC based on the most recently issued TDC limitations for new construction of similar units in the area, but not more than 100 percent of the maximum TMC based on the MROP limitations most recently issued pursuant to section 5(j)(2)(D) of the Act (see § 941.605(b)(2)), except that the reservation amount will be trended by projected construction cost increases over the next 18 months. In addition, § 941.406(a)(2) which concerns maximum TDC after fund reservation, is inapplicable; there will be no amendment funds to increase the original amount of the MROP activities fund reservation.

(4) A development project for MROP activities must have long-term viability (see § 941.603(e)) after completion of reconstruction and the annual contributions contract (ACC) for the MROP project must remain in effect for 40 years. In determining viability, the PHA must have a comprehensive plan (funded from other sources such as CIAP, CGP or donations, etc.) for the project for which the development funds for MROP activities are being requested. The comprehensive plan for the project may be part of the PHA's comprehensive plan for modernization. The comprehensive plan must demonstrate a strategy which will assure that the entire development will be viable for a minimum period of 20 years. This strategy may include, but not be limited to, an estimate of the required amount needed for rehabilitation of the remaining portion of the development to the extent additional rehabilitation is required; sources of funding for any additional work; any proposed demolition/disposition that may be planned; and written evidence of local government and resident support for the strategy.

§ 941.606 MROP application.

Eligibility for MROP application approval shall be determined using the CIAP application and procedures under 24 CFR part 968, as modified by the regulations of this part.

(a) *Application submission.* To apply for MROP funds, an eligible PHA shall submit a CIAP application in the form prescribed by HUD to the appropriate HUD Office in response to an issued NOFA. The application must identify the entire existing project, the portion proposed as the MROP project, explain how the PHA and the requested MROP meet the eligibility, rating and other criteria of the NOFA, identify the proposed physical and management improvement needs, estimated costs and funding sources.

(1) The application must include a statement of the PHA's priorities for receiving funding, and if it is submitting more than one application, whether it will accept funding for fewer units than requested (refusal to accept fewer units may result in application non-funding due to a disproportionate requirement for funds), and indicate whether the application should be considered for CIAP funding, if appropriate, if the project is determined ineligible for MROP.

(2) The application must be accompanied by a PHA Resolution and certifications required under the NOFA that the PHA will comply with the requirements of 24 CFR part 941.

(3) If demo/dispo or conversion is needed for long-term viability after reconstruction, the PHA must so state in its MROP application and advise as to the status of its demo/dispo or conversion application (see 24 CFR 941.603 (h) and (i)).

(b) *Application receipt and processing.* HUD Offices will receive, screen applications, and notify PHAs under the deficiency notice procedure set forth in the NOFA issued for fund availability under 24 CFR part 941.

(1) Review, rating and ranking, and selection for funding shall occur in accordance with the criteria stated in the published NOFA, which for MROP shall be largely based on the PHA's management capability to carry out the proposed MROP activities (considering the PHA's latest rating under the Public Housing Management Assessment Program), the expected term of useful life of the project or building after completion of proposed MROP activities, the likelihood of achieving full occupancy within the project or building after completion of MROP activities, and such other factors as the Secretary may determine, including statutory provisions which may cause the above factors to change.

(2) Funds shall be reserved in accordance with § 941.605(b)(2), and

PHAs shall be notified in accordance with the NOFA issued for funding availability under 24 CFR part 941.

§ 941.607 MROP proposal.

Following application approval and fund reservation, MROP projects will be processed under the development procedures and a project planning conference to discuss program requirements and the time schedule shall be held. The PHA shall incorporate its approved application into a proposal described in § 941.404, and upon its approval, an ACC will be executed in the form prescribed by HUD.

§ 941.608 MROP project development.

MROP project development shall proceed in accordance with subpart E, with the following modifications:

(a) *No site/property acquisition.* Since the property is already owned, § 941.501 is inapplicable.

(b) *Development method.* If the sealed bid method is used (as described in § 941.605) only §§ 941.502 (a) and (b) are applicable; however, no cost adjustments shall be made. If the competitive proposal method is used, § 941.502 is inapplicable, and § 941.605(a)(2) shall be followed.

(c) *Reconstruction, acceptance of contract work, and completion.* Sections 941.503 (concerning reconstruction requirements), 941.504 (concerning acceptance of contract work), and 941.505 (concerning completion of development) are applicable to MROP projects, except that there shall be no initial operating period or cost as under § 941.505(a) since the PHA will be receiving operating subsidy for the units under the original project until completion of the MROP project. A Date of Full Availability (DOFA) shall be established as the last day of the month in which substantially all the units in the MROP project are available for occupancy after reconstruction; the PHA and HUD will execute an amendment to the ACC to remove the units of the MROP project from the original development project, and initiate the operating subsidy for the MROP project units, both effective as the end of the quarter in which DOFA was achieved. Changes to applicable data systems shall also be effective as of that date.

Dated: June 13, 1994.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–16916 Filed 7–12–94; 8:45 am]

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federal register

Wednesday
July 13, 1994

Part V

Department of Commerce

Economic Development Administration

University Center Technical Assistance Program; Availability of Funds; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 940661–4161]

University Center Technical Assistance Program; Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: On March 30, 1994, the Economic Development Administration (EDA) published a Notice in the **Federal Register** (59 FR 14996) on the availability of funds for FY 1994. This Notice supplements that earlier notice by providing information on the University Center Technical Assistance program for FY 1994. This program helps colleges and universities mobilize their own and other resources to address economic development problems, especially in distressed areas. Funds for this program are available under Public Law 103–121.

DATES: This announcement is effective July 13, 1994. Colleges and universities seeking initial funding under this program must submit proposals in accordance with criteria listed in this notice no later than August 29, 1994. (Note: Colleges and universities currently participating in the program will be advised by the appropriate EDA regional office of the procedures to follow in applying for continued funding and the corresponding deadline dates.)

ADDRESSES: Proposals which seek funding to provide technical assistance in a single state or portion of a single state must be submitted to the appropriate Economic Development Representative (EDR) and EDA regional office. Proposals with a national service area should be submitted to the Technical Assistance and Research Division in Washington, D.C. Addresses for these offices are listed at the end of this announcement at Appendix A.

FOR FURTHER INFORMATION CONTACT: See listing in Appendix A.

SUPPLEMENTARY INFORMATION: Refer to the Notice published on March 30, 1994, in the **Federal Register** (59 FR 14996) for information on EDA's general policies.

Authority

Support for this program is authorized under section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(a).

Catalog of Federal Domestic Assistance (CFDA)

The University Center Technical Assistance program is listed under CFDA 11.303, Economic Development—Technical Assistance.

Program Description

This program helps educational institutions establish and maintain outreach programs which permit them to be active and on-going participants in economic development. The objective of the program is to use the resources of the educational institutions to provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment and problems of distressed populations in individual states or substate areas. The technical assistance provided under this program must be directed to clients outside the institution of higher education.

Funding Availability

The FY 1994 budget for this program is $7.57 million. While the expected funding range for each award is $75,000 to $150,000, circumstances may warrant funding projects at higher or lower levels. In FY 1993, EDA provided funding to 64 colleges and universities under this program.

Matching Requirements

A minimum match, equal to 25 percent of the total project cost, is required.

Type of Funding Instrument

This program uses grants as its funding instrument.

Eligibility Criteria

Eligible applicants for this program are accredited institutions of higher education.

Award Period

The project period for grants awarded under this program generally will not exceed twelve months.

Indirect Costs

EDA encourages applicants to waive indirect costs for this program. No more than 20 percent of the Federal grant and nonfederal share may be allocated for indirect costs.

Application Forms and Kit

This program uses Standard Form (SF) 424 (4/92), Application for Federal Assistance; SF–424A (4/92), Budget Information—Non-Construction Programs; and SF–424B (4/92), Assurances—Non-Construction Programs. In addition to the forms listed above, the following forms are required: CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying; CD–512, Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying; CD–346 (8/88), Applicant for Funding Assistance; SF–LLL, Disclosure of Lobbying Activities; and SF–LLL–A, Disclosure of Lobbying Activities Continuation Sheet. Applicants must provide an original and two (2) copies of the applications and supporting documentation.

Project Funding Priorities

Innovative proposals with a variety of economic development foci are welcome. However, applicants should note that EDA will not award University Center Technical Assistance program funds to provide general business assistance (e.g., preparing business plans) in areas served by Small Business Development Centers (SBDCs), Minority Business Development Centers (MDBCs), or Trade Adjustment Assistance Centers (TAACs). Most successful proposals funded in the recent past have emphasized providing technical assistance to public sector and nonprofit organizations related to economic development planning and projects or helping private sector firms use technology to solve manufacturing or processing problems.

Evaluation Criteria

For existing University Centers, EDA will primarily consider past performance in determining whether to continue the award and the amount of funding to be offered. In judging a proposal for new University Center funding, EDA will consider whether it:

1. Addresses the economic development needs of the service area;
2. Complements the activities of other organizations in the proposed service area that are engaged in economic development;
3. Has the commitment of the highest management levels of the sponsoring institution;
4. Provides evidence of adequate nonfederal financial support, either from the sponsoring institution or other sources;
5. Outlines activities consistent with the expertise of the proposed University Center staff and the academic programs and other available resources within the sponsoring institution;
6. Complements and supports the local, regional or state economic

development strategies in the service area;

7. Presents a reasonable budget, including both the Federal and nonfederal shares;

8. Documents past experience of the sponsoring institutions in operating technical assistance programs; and

9. Adds to the geographic distribution of University Centers across the country.

Evaluation criteria are not assigned weights, as all factors are equally important and contribute to the overall quality of the proposals.

All proposals must include a work program organized under the following categories: (1) Providing technical assistance; (2) conducting applied research; and (3) disseminating results of the University Center activities. For this program, technical assistance is defined as an activity carried out by the University Center in response to a direct request from a client outside the sponsoring educational institution. Applied research is defined as an economic development activity undertaken by the University Center at its own initiative.

All proposals must include quantitative and qualitative evaluation criteria for each activity listed under the three categories of the work program. These criteria, when accepted by EDA, will be the primary guide used in judging the performance of the University Center.

All proposals must include a program budget that, at a minimum, indicates the Federal and nonfederal funds allocated to each of the three work program categories. At least 70 percent of the direct costs of the project budget must be allocated to the first category of the work program, providing technical assistance to clients outside the sponsoring institutions.

Selection Procedures

The EDA regional offices (or the Technical Assistance and Research Division in Washington for National University Centers), reviews the proposals and makes recommendations for funding to the Assistant Secretary for Economic Development, who makes the final decisions based on the relative merits of the applications.

Other Requirements

Refer to the Notice published on March 30, 1994, in the **Federal Register** (59 FR 14996) for information on EDA's general policies.

1. Federal Policies and Procedures. Recipients and subrecipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Past Performance. Unsatisfactory performance under prior Federal awards may result in an application not be considered for funding.

3. Preaward Activities. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs.

4. No Obligation for Future Funding. If an applicant is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

5. Delinquent Federal Debts. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

i. the delinquent account is paid in full;

ii. a negotiated repayment schedule is established and at least one payment is received, or

iii. other arrangements satisfactory to DoC are made.

6. Name Check Review. Officials acting on behalf of an accredited institution of higher education are exempt from the name check review process.

7. Primary Applicant Certifications. All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

i. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

ii. Drug-Free Workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

iii. Anti-Lobbying. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

iv. Anti-Lobbying Disclosures. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying and Activities," as required under 15 CFR Part 28, Appendix B.

8. Lower Tier Certifications. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

9. False Statements. A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

10. Intergovernmental Review. Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Dated: July 1, 1994.

William W. Ginsberg,

Assistant Secretary for Economic Development.

Appendix A

For further information about University Center Technical Assistance contact the Technical Assistance and Research Division, Economic Development Administration, Room H7315, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 482–2127, or the appropriate regional/field office, or economic development representative (EDR) listed below.

EDRs	States Covered
ATLANTA REGIONAL OFFICE 401 West Peachtree Street, NW., Suite 1820 Atlanta, Georgia 30308–3510 Telephone: (404) 730–3002	
Burnette, F. Wayne, Aronov Building, Room 134, 474 South Court Street, Montgomery, AL 36104, Telephone: (205) 223–7008.	Alabama
Smith, Lola B., Federal Building, Room 423, 80 North Hughey Avenue, Orlando, FL 32801, Telephone: (407) 648–6572.	Florida
Day, William J., Jr., 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3000.	Georgia
Hunter, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477, Telephone: (606) 233–2596	Kentucky
Ainsworth, Bob, 221 Federal Building, 100 West Capital Street, Jackson, MS 39269, Telephone: (601) 965–4342	Mississippi
Jones, Dale L., P.O. Box 2522, Raleigh, NC 27601, Telephone: (919) 856–4570	North Carolina
Dixon, Patricia M., Strom Thurmond Federal Building, 1835 Assembly Street, Room 840, Columbia, SC 29201, Telephone: (803) 765–5676.	South Carolina
Parks, Mitchell S., 261 Cumberland Bend Drive, Nashville, TN 37228, Telephone: (615) 736–5911	Tennessee
AUSTIN REGIONAL OFFICE Suite 201, Grant Building 611 East Sixth Street Austin, Texas 78701–3748 Telephone: (512) 482–5461	
Spearman, Sam, Room 2509, Federal Building, 700 West Capitol, Little Rock, AR 72201, Telephone: (501) 324–5637.	Arkansas
Davidson, Pamela, 412 North Fourth Street, Room 104, Baton Rouge, LA 70802–5523, Telephone: (504) 389–0227.	Louisiana
Swearingen, James, P.O. Box 2662, Santa Fe, NM 87504, Telephone: (505) 988–6557	New Mexico
Waters, Alvin X. Jr., 5500 North Western, Suite 148, Oklahoma City, OK 73118–4011, Telephone: (405) 231–4198	Oklahoma
Ramirez, Roy, Suite 201, Grant Building, 611 East Sixth Street, Austin, TX 78701–3748, Telephone: (512) 482–5118.	Texas (south)
Jacob Lawrence, Suite 201, Grant Building, 611 East Sixth Street, Austin, TX 78701–3748, Telephone: (512) 482–5119.	Texas (north)
CALIFORNIA FIELD OFFICE Oakland Federal Building 1301 Clay Street, Suite 675N Oakland, California 94612–5217 Telephone: (510) 637–2988	
Sosson, Deena R., 1345 J Street, Suite B, Sacramento, CA 95814, Telephone: (916) 551–1541	California (northern)
Lewis, William J., 1345 J Street, Suite A, Sacramento, CA 95814, Telephone: (916) 551–2160	California (central)
Oaks, Charles W., 11000 Wilshire Boulevard, Room 11105, Los Angeles, CA 90024, Telephone: (310) 575–7286	California (southern)
CHICAGO REGIONAL OFFICE 111 North Canal Street, Suite 855 Chicago, IL 60606–7204 Telephone: (312) 353–7706	
Casals, Alfred L., 509 West Capitol, Suite 204, Springfield, IL 62704, Telephone: (217) 492–4224	Illinois
Henderson, Richard L., Federal Building Courthouse, Room 402, 46 East Ohio Street, Indianapolis, IN 46204, Telephone: (317) 226–6104.	Indiana
Collison, James L., 100 North Warren Avenue, Room 1018, Saginaw, MI 48606–0867, Telephone: (517) 758–4097.	Michigan
Arnold, John B. III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (218) 720–5326	Minnesota
Hickey, Robert F., Federal Building, Room 607, 200 North High Street, Columbus, Ohio 43214, Telephone: (614) 469–7314.	Ohio
Price, Jack D., 1320 W. Clairemont Ave., Suite 114, Eau Claire, WI 54701, Telephone: (715) 834–4079	Wisconsin
DENVER REGIONAL OFFICE 1244 Speer Boulevard, Room 670 Denver, Colorado 80204 Telephone: (303) 844–4714	
Zender, John, 1244 Speer Boulevard, Room 632, Denver, CO 80204, Telephone: (303) 844–4902	Colorado, Kansas
Cecil, Robert, Federal Building, Room 593A, 210 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284–4746.	Iowa
Koch, Forrest E., Robert A. Young Building, Room 8.308H, 1222 Spruce Street, St. Louis, MO 63103, Telephone: (314) 539–2321.	Missouri
Rogers, John C., Federal Building, Room 196, Drawer 10074, Helena, MT 59626, Telephone: (406) 449–5074	Montana
Albertson, Warren A., Federal Building, Room 219, Pierre, SD 57501, Telephone: (605) 224–8280	Nebraska, South Dakota
Grant, Cornelius P., P.O. Box 1911, Bismarck, ND 58501, Telephone: (701) 250–4321	North Dakota
Ockey, Jack, Federal Building, Room 2414, 125 South State Street, Salt Lake City, UT 84138, Telephone: (801) 524–5119.	Utah, Wyoming

EDRs	States Covered
PHILADELPHIA REGIONAL OFFICE Curtis Center Independence Square West Suite 140 South Philadelphia, PA 19106 Telephone: (215) 597–4603	
Hammarlund, C.N. Jr., Federal Office Building, Room 453, 450 Main Street, Hartford, CT 06103, Telephone: (203) 240–3256.	Connecticut, Rhode Island
Flynn, Patricia A., 2568 Riva Road, 2nd Floor, Annapolis, MD 21401, Telephone: (410) 962–2513	Delaware, Maryland, District of Columbia
Blitz, Sandford, Federal Building, Room 410D, 40 Western Avenue, Augusta, ME 04330, Telephone: (207) 622–8271.	Maine
Fitzhenry, William A., Boston Federal Office Building, 10 Causeway Street, Room 420 (Box 2), Boston, MA 02222–1036, Telephone: (617) 565–7235.	Massachusetts
Potter, Rita V., 143 North Main Street, Suite 209, Concord, NH 03301, Telephone: (603) 225–1624	New Hampshire, Vermont
Rossignol, Clifford J., 44 South Clinton Avenue, Room 703, Trenton, NJ 08609, Telephone: (609) 989–2192	New Jersey
Marshall, Harold J. II, 620 Erie Boulevard West, Suite 104, Syracuse, NY 13204, Telephone: (315) 423–5203	New York
Pecone, Anthony M., 1933A New Berwick Highway, Bloomsburg, PA 17815, Telephone: (717) 389–7560	Pennsylvania
Cruz, Ernesto L., Federal Office Building, Room 620, 150 Carlos Chardon Avenue, Hato Rey, PR 00918–1738, Telephone: (809) 766–5187.	Puerto Rico, Virgin Islands
Noyes, Neal E., 700 Centre Building, Room 230, 704 E. Franklin Street, Richmond, VA 23219, Telephone: (804) 771–2061.	Virginia
Davis, R. Byron, Rose City Press Building, 550 Eagan Street, Room 305, Charleston, WV 25301, Telephone: (304) 347–5252.	West Virginia
SEATTLE REGIONAL OFFICE Jackson Federal Building, Room 1856 915 Second Avenue Seattle, Washington 98174 Telephone: (206) 220–7660	
Richert, Bernhard E. Jr., 605 West 4th Avenue, Room G–80, Anchorage, AK 99501–7594, Telephone: (907) 271–2274.	Alaska
Perot, C. Antony, 2901 North Central Avenue, Phoenix Plaza, Suite 965, Phoenix, AZ 85012, Telephone: (602) 640–2541.	Arizona, Nevada (except Elko, Eureka and White Pine Counties)
McChesney, Frank, P.O. Box 50264, Federal Building, Room 4106, Honolulu, HI 96850, Telephone: (808) 541–3391.	Hawaii, Guam, American Samoa, Marshall Islands, Micronesia, Northern Marianas
Ames, Aldred F., Room 441, 304 North 8th Street, Boise, ID 83702 Telephone: (208) 334–1533	Idaho, Nevada, (counties of Elko, Eureka & White Pine)
Berblinger, Anne S., One World Trade Center, 121 S.W. Salmon Street, Suite 244, Portland, OR 97204, Telephone: (503) 326–3078.	Oregon
Kirry, Lloyd P. (acting), Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7682.	Washington

[FR Doc. 94–16939 Filed 7–12–94; 8:45 am]

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federal register

Wednesday
July 13, 1994

Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Gaming Compact Between the Sisseton-Wahpeton Tribe and the State of North Dakota, which was executed on May 5, 1994.

DATES: This action is effective July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Emily Ramirez, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: July 1, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–16937 Filed 7–12–94; 8:45 am]

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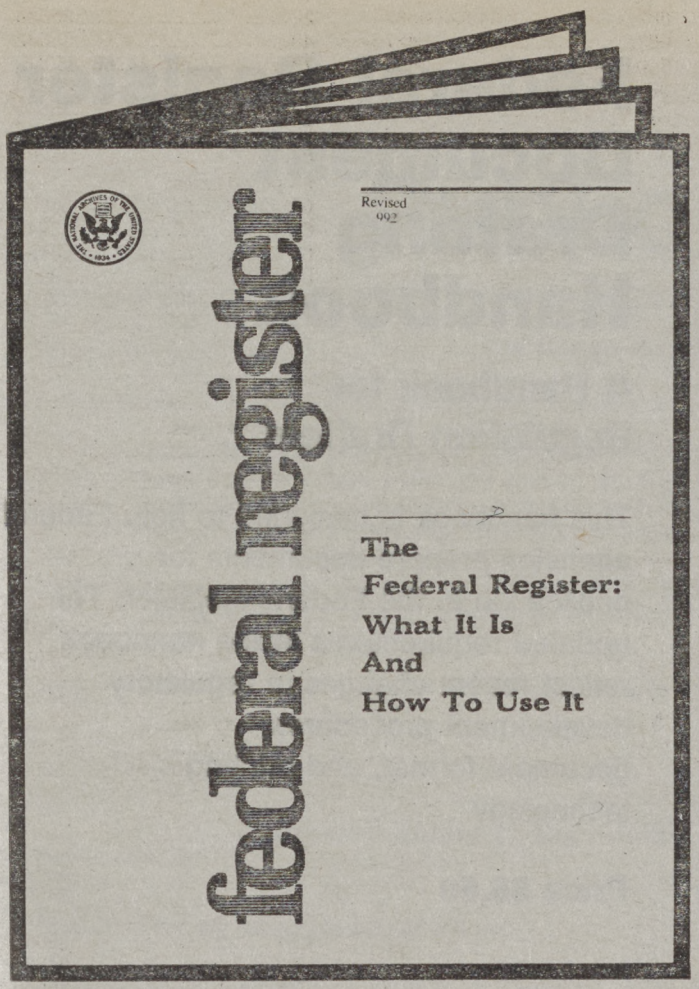
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LIST OF PUBLIC LAWS

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Last List July 11, 1994



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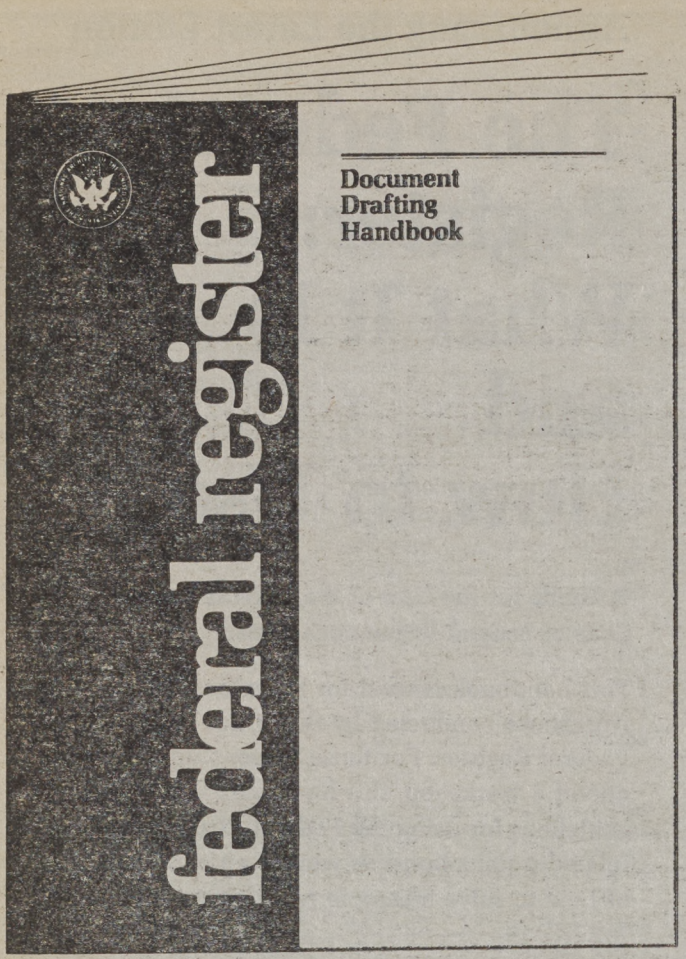
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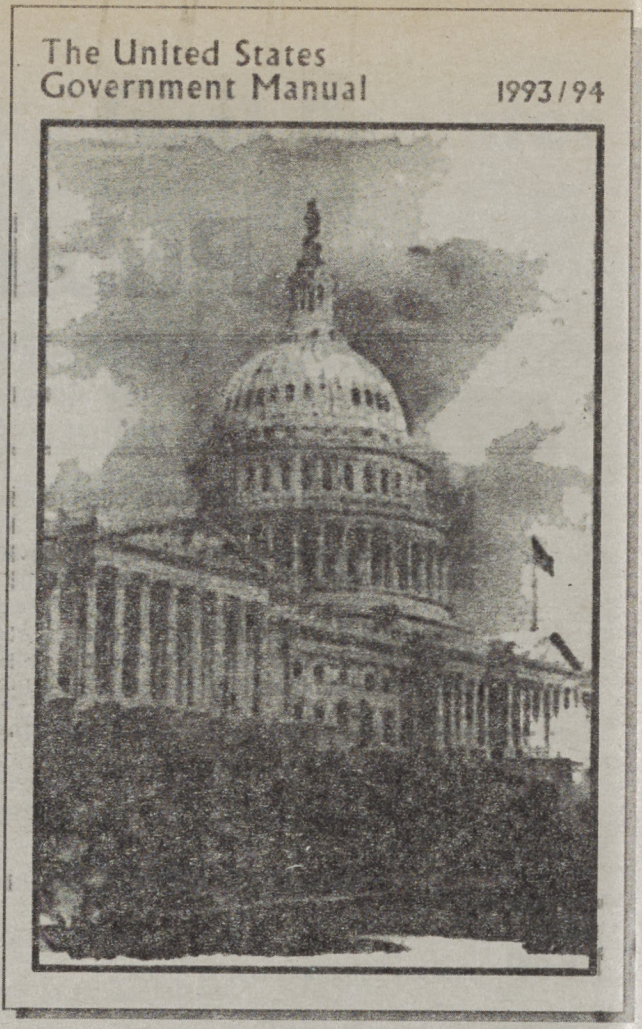
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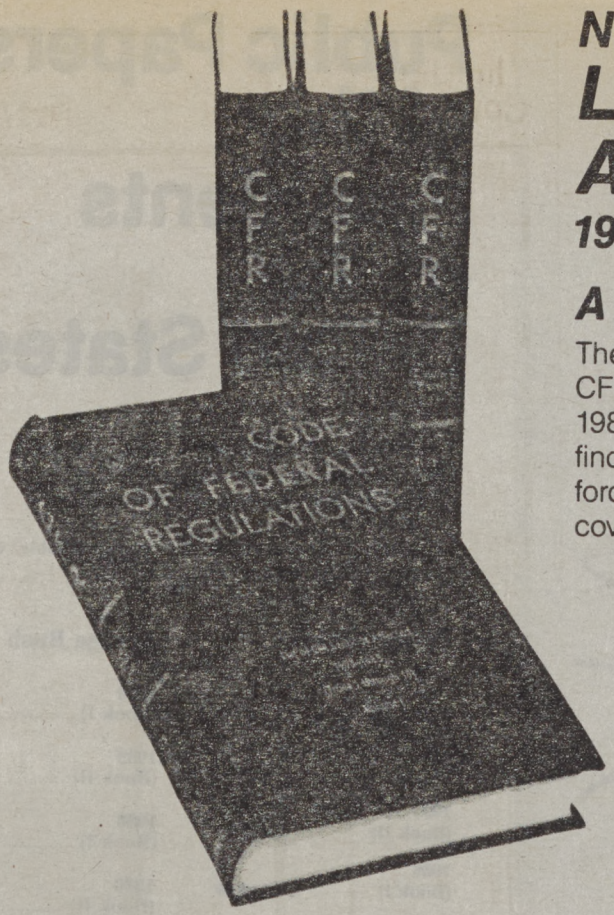
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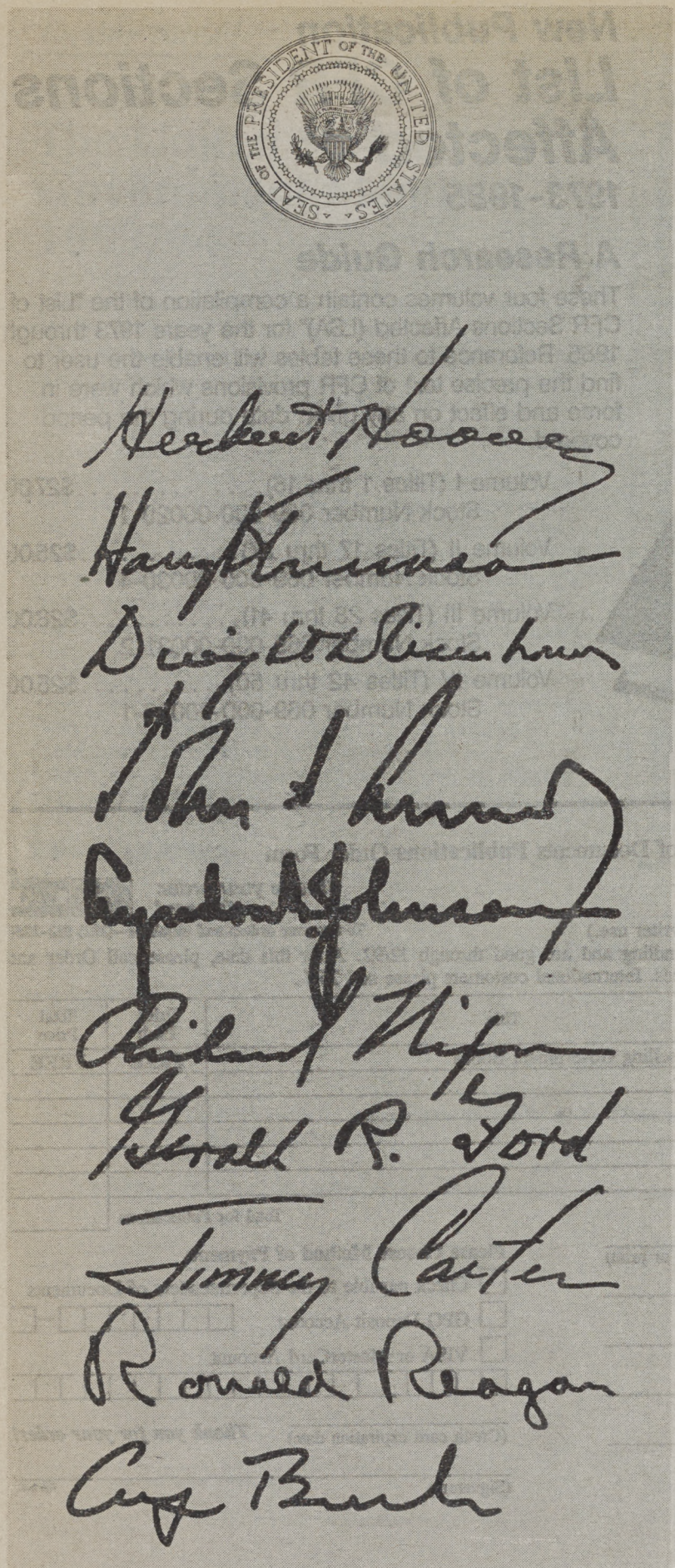
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