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Contents

Federal Register

Vol. 59, No. 171

Tuesday, September 6, 1994

Agriculture Department
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Forest Service

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Genetically engineered organisms; field test permits—
Broccoli plants, etc., 46030

Army Department
RULES
Civil authorities and public relations:
Litigation—
Revisions; correction, 45974–45975

Centers for Disease Control and Prevention
NOTICES
Grant and cooperative agreement awards:
Institute of Medicine, National Academy of Sciences, 46051–46052
Meetings:
Vital and Health Statistics National Committee, 46052–46053

Commerce Department
See Economic Development Administration
See Economics and Statistics Administration
See Export Administration Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
NOTICES
Agency information collection activities under OMB review, 46031–46034
Senior Executive Service:
Performance Review Board; membership, 46033

Customs Service
PROPOSED RULES
Freedom of Information Act; implementation, 46007–46012

Defense Department
See Army Department
See Defense Mapping Agency
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Convict labor use, 46020–46021
Government credit cards; withdrawn, 46021
Reconditioned material, 46019–46020
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 46037

Defense Mapping Agency
PROPOSED RULES
Acquisition regulations:
Federal information processing resources; malicious code contamination, 46022

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Copeland, John W., M.D., 46063–46066
Dellmar Pharmacy No. 4, 46066–46067

Economic Development Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 46034

Economics and Statistics Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 46034

Education Department
NOTICES
Agency information collection activities under OMB review, 46038–46040
Grants and cooperative agreements; availability, etc.:
Rehabilitation training programs, 46118–46123
Meetings:
President's Board of Advisors on Historically Black Colleges and Universities, 46040–46041

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Texas, 46041
Recommendations by Defense Nuclear Facilities Safety Board:
Defense nuclear facilities complex; improved schedule for remediation, 46041–46042

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Florida, 45976–45978
Missouri, 45976
Air quality implementation plans; approval and promulgation; various States; and air quality planning purposes; designation of areas:
West Virginia, 45978–45986
Hazardous waste program authorizations:
Minnesota, 45986–45987
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Florida, 46015
Texas, 46015–46019
Air quality implementation plans; approval and promulgation; various States; and air quality planning purposes; designation of areas:
West Virginia, 46019
NOTICES
Agency information collection activities under OMB review, 46044–46045
Meetings:
Environmental Policy and Technology National Advisory Council, 46045–46046

Gulf of Mexico Program Management Committee, 46045
Water pollution control:
Clean Water Act—
Class II administrative penalty assessments, 46046

Export Administration Bureau
NOTICES
Meetings:
Regulations and Procedures Technical Advisory Committee, 46034

Farm Credit Administration
RULES
Farm credit system:
Organization, general provisions, and disclosures to shareholders; miscellaneous amendments
Effective date, 45972

Federal Aviation Administration
RULES
Class C, Class D, and Class E airspace; correction, 45972
Terminal areas, 46152–46155
PROPOSED RULES
Airworthiness directives:
Fokker, 46004–46005
Terra Corp., 46007
Turbomeca, 46005–46007
Definitions:
"Commercial purposes" term used in "public aircraft" definition; legal interpretation reconsideration, 46004
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 46080–46081

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
900 MHz emission mask, 45988–45989
NOTICES
Agency information collection activities under OMB review, 46046–46047

Federal Crop Insurance Corporation
RULES
Crop insurance regulations:
Fall planted crops insurance, 45971–45972

Federal Emergency Management Agency
NOTICES
Federal radiological emergency response plan, 46086–46107

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Medina Power Co., 46042
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 46042–46043
Cove Point LNG L.P., 46043–46044
Mississippi River Transmission Corp., 46044
Williston Basin Interstate Pipeline Co., 46044

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Bank of New York Co., Inc.; correction, 46047–46049
Citizens Bancshares, Inc., et al., 46048–46049
First Citizens Banshares, Inc., et al., 46049
Foust, Richard J., et al., 46050–46051
N.S. Bancorp, Inc., 46049–46050
Provident Bancorp, Inc., et al., 46050

Fish and Wildlife Service
RULES
Endangered and threatened species:
Kootenai River white sturgeon, 45989–46002
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc., 46022–46023
Endangered Species Convention:
Appendices and amendments, 46023–46029

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Selenium, 45973–45974
Food additives:
Adjuvants, production aids, and sanitizers—
Boric acid as stabilizer in ethylene-vinyl acetate-vinyl alcohol copolymers, 45972–45973
NOTICES
Human drugs:
Patent extension; regulatory review period determinations—
Aviax, 46053–46054
Memorandums of understanding:
Russian Federation; cooperation and information exchange on drugs and biological products facilitating importation, 46054–46056

Forest Service
NOTICES
Environmental statements; availability, etc.:
Colville National Forest, WA, 46031

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Convict labor use, 46020–46021
Government credit cards; withdrawn, 46021
Reconditioned material, 46019–46020
NOTICES
Environmental statements; availability, etc.:
Concord, NH; James C. Cleveland Federal Building Courthouse, 46051
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 46037

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See Public Health Service

Health Care Financing Administration
NOTICES
Medicare:
Fiscal intermediaries and carriers—
Criteria and standards for evaluating performance during 1994 FY, 46056–46057

Health Resources and Services Administration
See Public Health Service

NOTICES
Grant and cooperative agreement awards:
National Rural Health Association, 46057–46058

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Potassium permanganate from—
China, 46035–46036

Justice Department
See Drug Enforcement Administration

Labor Department
See Occupational Safety and Health Administration

Land Management Bureau
RULES
Public land orders:
Oregon, 45987–45988
NOTICES
Realty actions; sales, leases, etc.:
Nebraska, 46058–46060
Survey plat filings:
Idaho, 46060
Oregon/Washington, 46060
Withdrawal and reservation of lands:
Arizona, 46060—46061

Maritime Administration
NOTICES
U.S.-Flag coastwise trade launch barges; inventory, 46081–46082

Minerals Management Service
NOTICES
Agency information collection activities under OMB review, 46061
Memorandums of understanding:
Russian Federation Committee on Geology and Use of Mineral Resources; simultaneous leasing in U.S. Chukchi Sea and Hope Basin Planning Areas et al., 46110–46115

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Convict labor use, 46020–46021
Government credit cards; withdrawn, 46021
Reconditioned material, 46019–46020
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 46037

National Institute of Standards and Technology
NOTICES
Information processing standards; Federal:
Standard security label for information transfer, 46036–46037

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
North Pacific Fisheries research plan; implementation, 46126–46149
Pacific Coast groundfish, 46002–46003

National Park Service
NOTICES
Environmental statements; availability, etc.:
Jewel Cave National Monument, SD, 46061–46062
Presidio of San Francisco, Golden Gate National Recreation Area, CA, 46062–46063
Wind Cave National Park, SD, 46063
Meetings:
Cape Cod National Seashore Advisory Commission, 46063

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 46067–46069

National Telecommunications and Information Administration
NOTICES
Senior Executive Service:
Performance Review Board; membership, 46037

Nuclear Regulatory Commission
PROPOSED RULES
Practice rules:
Enforcement actions; policy and procedure Correction, 46004
NOTICES
Abnormal occurrence reports:
Periodic reports to Congress, 46069
Applications, hearings, determinations, etc.:
Arizona Public Service Co., 46069–46071
Georgia Power Co. et al., 46071–46073

Occupational Safety and Health Administration
PROPOSED RULES
Construction safety and health standards:
Steel Erection Negotiated Rulemaking Advisory Committee
Meetings, 46012–46013

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities under OMB review, 46073–46074

Postal Service
NOTICES
Meetings; Sunshine Act, 46084

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Dietary Guidelines Advisory Committee; meeting, 46058

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Midwest Clearing Corp. et al., 46074–46075

Municipal Securities Rulemaking Board, 46075–46077

Small Business Administration
NOTICES
Disaster loan areas:
Georgia, 46078
Washington, 46078

State Department
NOTICES
Meetings:
Shipping Coordinating Committee, 46078
Senior Executive Service:
Performance Review Board; membership, 46078

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 46013–46015

Transportation Department
See Federal Aviation Administration
See Maritime Administration
NOTICES
Privacy Act:
Systems of records, 46078–46080

Treasury Department
See Customs Service

Veterans Affairs Department
RULES
Adjudication; pensions, compensation, dependency, etc.:
Exclusions from income—
Life insurance policy cash surrender value which represents premiums return, 45975–45976
Ionizing radiation exposure claims; brain and central nervous system tumors, 45975
NOTICES
Committees; establishment, renewal, termination, etc.:
Geriatrics and Gerontology Advisory Committee, 46082
Meetings:
Cooperative Studies, Health Services, and Rehabilitation Research and Development Advisory Committee, 46082–46083
Education Advisory Committee, 46083

Separate Parts In This Issue

Part II
Federal Emergency Management Agency, 46086–46107

Part III
Department of the Interior, Minerals Management Service, 46110–46115

Part IV
Department of Education, 46118–46123

Part V
Department of Commerce, National Oceanic and Atmospheric Administration, 46126–46149

Part VI
Department of Transportation, Federal Aviation Administration, 46152–46155

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
457.....45971

10 CFR
Proposed Rules:
2.....46002

12 CFR
611.....45972
618.....45972
620.....45972

14 CFR
71 (2 documents).....45972, 46152
93.....46152
Proposed Rules:
1.....46004
39 (3 documents).....46004, 46005, 46007

19 CFR
Proposed Rules:
103.....46007

21 CFR
178.....45972
558.....45973
573.....45973

29 CFR
Proposed Rules:
1926.....46012

30 CFR
Proposed Rules:
917.....46013

32 CFR
516.....45974

38 CFR
3 (2 documents).....45975

40 CFR
52 (5 documents).....45976, 45978, 45980, 45985
81 (3 documents).....45978, 45980, 45985
272.....45986
Proposed Rules:
52 (3 documents).....46015, 46019
81.....46019

43 CFR
Public Land Orders:
7081.....45987

47 CFR
90.....45988

48 CFR
Proposed Rules:
10.....46019
13.....46021
22.....46020
52 (2 documents).....46019, 46020
5552.....46022

50 CFR
17.....45989
204.....46126
301.....46126
663.....46002
671.....46126
672.....46126
675.....46126
676.....46126
677.....46126
Proposed Rules:
17.....46022
23.....46023

Rules and Regulations

Federal Register
Vol. 59, No. 171
Tuesday, September 6, 1994

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

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim final rule.

SUMMARY: Most of the funding for delivery of the Federal crop insurance program for Fiscal Year 1995 is contained within the Federal Crop Insurance Reform Act of 1994. Although the Reform Act is moving through Congress, it has not yet been enacted and the fall planted crop cancellation date is approaching. Although Federal Programs are, by law, subject to the availability of appropriations, that is not explicitly stated in the regulations. This rule makes it clear that continuation of crop insurance policies reinsured by FCIC are subject to the availability of appropriations.

DATES: Effective date: This rule is effective August 31, 1994.

Comments should be submitted by November 7, 1994.

ADDRESSES: Written comments on this interim final rule should be sent to Mari L. Dunleavy, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation USDA, Washington, D.C. 20250 or delivered to Suite 500, 2101 L Street, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations remains January 1, 1996.

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).

It has been determined under section 6(a) of the Executive Order 12612, Federalism that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism 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.

This action will not have a significant economic impact on a substantial number of small entities. The rule would not increase the amount of work required by reinsured companies and their agents, and provides a mechanism for the uninterrupted coverage to the policyholders. 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.

The Office of the General Counsel 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 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 part 400, subpart J must be exhausted before judicial action may be brought.

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.

It has been determined that an emergency situation exists requiring immediate effectiveness of the rule without the opportunity for public notice and comment. If all fall planted crop insurance policies were canceled and then rewritten when sufficient funds were available, it would require a significant increase in time and inconvenience on the part of the policyholder and the company.

Most of the funding for delivery of the Federal crop insurance program for Fiscal Year 1995 is contained within the Federal Crop Insurance Reform Act of 1994 and the 1995 Fiscal Year Agricultural Appropriation Act. Although both are moving through Congress, they have not yet been enacted and the fall planted crop cancellation date is approaching. Therefore, insurance companies have been put in a position where they may soon be required to cancel fall planted crop insurance policies. This rule provides that the policies effectiveness depends on appropriations. Every crop insurance policy reinsured by FCIC contains a provision that states that all provisions of the policy and the rights and responsibilities of the parties are specifically subject to the Federal Crop Insurance Act (the "Act"). Since funds to deliver the Federal crop insurance program are authorized by the Act, if insufficient funds are appropriated under the Act, the policies would be rendered ineffective. Therefore, this rule does not materially change any term or provision of the policy, nor any provision of law.

FCIC is soliciting written public comment on this interim final rule for 60 days following its publication. This rule will be scheduled for review so that any amendment to the rule required as a result of such public comment may be published as quickly as possible.

Written comments received pursuant to this rule will be made available for public inspection and copying in suite 500, 2101 L Street N.W., Washington, D.C. during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 457

Crop insurance.

Interim Final Rule

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 hereby proposes to amend the Common Crop Insurance Regulations for the 1995 crop year only (7 CFR part 457) as follows:

1. The authority citation for 7 CFR part 457 continues to read as follows:

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

2. 7 CFR part 457 is amended by adding a new § 457.9 to read as follows:

§ 457.9 Appropriation contingency.

Notwithstanding the cancellation date stated in the policy, if there are insufficient funds appropriated by the Congress to deliver the crop insurance program, the policy will automatically terminate without liability.

Done in Washington, D.C. on August 31, 1994.

Robert Fenton,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 94–21908 Filed 8–31–94; 4:24 pm]

BILLING CODE 3410–08–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 618, and 620

RIN 3052–AB42

Organization; General Provisions; Disclosure to Shareholders; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under parts 611, 618, and 620 on July 22, 1994 (59 FR 37406). The final regulation amends 12 CFR parts 611, 618, and 620 to reflect changes to the Farm Credit Act of 1971 made by the Farm Credit Banks Safety and Soundness Act of 1992, and amends the annual report disclosure rules for director reimbursable expenses to address concerns raised by Farm Credit banks regarding the equity and regulatory burden of the existing rule. Additionally, the regulation amends the disclosure requirements for senior officer compensation to make the disclosures more informative and useful to shareholders. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is August 22, 1994.

EFFECTIVE DATE: The regulation amending 12 CFR parts 611, 618, and 620 published on July 22, 1994 (59 FR 37406) is effective August 22, 1994.

FOR FURTHER INFORMATION CONTACT: Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Joy E. Strickland, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: August 30, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–21878 Filed 9–2–94; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWA–10]

Revocation of the Sacramento, Mather AFB, CA, Class C and Class E Airspace Areas and Revision of the Sacramento, McClellan AFB, CA, Class C Airspace Area and the Sacramento Executive Airport, CA, Class D Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule published on August 9, 1994, which incorporated a revision to the Sacramento Executive Airport, CA, Class D airspace area. The correct revision to the Sacramento Executive Airport, CA, Class D airspace area was reflected in Airspace Docket No. 94–AWP–13, published on May 27, 1994, which became effective August 18, 1994. Because this action was inadvertently included in Airspace Docket No. 93–AWA–10, we find it necessary to remove the airspace designation from the final rule.

EFFECTIVE DATE: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION: On August 9, 1994, the FAA published a final rule that removed the Class C and Class E airspace areas at Mather Air Force Base (AFB) Sacramento, CA, due to the closure of Mather AFB on May 15, 1993 (59 FR 40465). The rule also altered the Sacramento, McClellan AFB, CA, Class C airspace area and the Sacramento Executive Airport, CA, Class D airspace area. The correct revision to the Sacramento Executive Airport, CA, Class D airspace area was reflected in Airspace Docket No. 94–AWP–13, published on May 27, 1994, which became effective on August 18, 1994 (59 FR 27451). Because this action was inadvertently included in Airspace Docket No. 93–AWA–10, we find it necessary to remove the airspace designation from the final rule.

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the **Federal Register** on August 9, 1994 (59 FR 40465; **Federal Register** Document 94–19406) is corrected by removing the amendment to the Sacramento Executive Airport, CA, Class D airspace area designation.

Issued in Washington, DC, on August 24, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–21884 Filed 9–2–94; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 90F–0036]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of boric acid as a stabilizer in ethylene-vinyl acetate-vinyl alcohol copolymers intended for use in contact with food. This action is in response to a petition filed by Nippon Synthetic Chemical Industry Co., Ltd.

DATES: Effective September 6, 1994; written objections by October 6, 1994.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food

Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 28, 1990 (55 FR 7032), FDA announced that a petition (FAP 0B4188) had been filed by Nippon Chemical Industry Co., Ltd., 9–6, Nozaki-Cho, Kita-Ku, Osaka, Japan. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of boric acid as a stabilizer in ethylene-vinyl acetate-vinyl alcohol copolymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed additive use is safe, and that 21 CFR 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 6, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
Boric acid (CAS Reg. No. 10043–35).	For use only at levels not to exceed 0.16 percent by weight of ethylene-vinyl acetate-vinyl alcohol copolymers complying with § 177.1360(a)(3) and (d) of this chapter.
* * * * * * *	

Dated: August 24, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–21836 Filed 9–2–94; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 558 and 573

[Docket No. 86F–0060]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium; Stay of the 1987 Amendments; Reassessment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is confirming the continued validity of the stay of the 1987 amendments to the selenium food additive regulations. The amendments provided for an increase in the maximum supplementation level of selenium in animal feeds. On September 13, 1993 (58 FR 47962), the Food and Drug Administration (FDA) stayed the 1987 amendments to the selenium food additive regulations. In that document the agency stated that it intended to reassess the decision to stay the amendment of the regulation, based on the progress of the needed research on selenium, by September 13, 1994, and as needed thereafter. The agency has determined that sufficient progress has been made and is issuing this document to confirm the continued validity of the stay.

EFFECTIVE DATE: September 6, 1994.

ADDRESSES: Submit written information to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. The public file may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV–226), Food

and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1731.

SUPPLEMENTARY INFORMATION:

I. Background

On September 13, 1993 (58 FR 47962), FDA stayed the 1987 amendments to the selenium food additive regulations. As a result of the stay of the 1987 amendments, the maximum permitted use levels of selenium returned to those levels permitted before FDA issued the amendments. FDA also stayed the portion of the regulation that provided for the use of a bolus for selenium supplementation at the increased levels. This action was taken because the agency concluded that FDA's finding of no significant impact and the environmental assessment prepared by the American Feed Industry Association for the 1987 action were inadequate to determine whether selenium supplementation of animals results in wastes that may cause selenium-related environmental impacts.

FDA also stated in the September 13, 1993, final rule that it intended to reassess its decision to stay the amendments by September 13, 1994, and as needed thereafter. Progress made on the research required to complete an adequate environmental analysis is to be evaluated to determine the continued validity of the stay. If the agency makes the determination that progress is not adequate, the agency is to take action to deny the petition and revoke the 1987 amendments.

For that reason, the agency asked to be kept advised of all research endeavors.

II. Confirmation of the Stay

The agency has determined that sufficient progress is being made to confirm the continued validity of the stay after September 13, 1994. The basis for this determination is the progress made at the Selenium Environmental Roundtable, which was held by the Forum for Animal Agriculture on January 25 and 26, 1994. The final report of the Roundtable assists in prioritizing the research needed (Environmental Roundtable: Selenium Use in Animal Feeds, Final Report, January 25 and 26, 1994, Forum for Animal Agriculture). A copy of this report under the same docket number 86F–0060 is on display at the Dockets Management Branch (address above). Further, the agency has been advised of independent research initiatives at Michigan State University, University of Kentucky, University of Idaho, and Texas A & M University.

FDA should continue to be kept apprised of all research endeavors. Comments should be submitted to the Dockets Management Branch (address above) and identified with the docket no. 86F–0060. The agency will conduct periodic reassessments of research progress as needed after September 13, 1994. If the agency determines, based on the reassessments, that research progress is not adequate, the agency will take the actions necessary to deny the 1986 food additive petition and revoke the 1987 amendments.

Dated: August 24, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94–21835 Filed 9–2–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 516

Litigation

AGENCY: Office of the Army Staff Judge Advocate General, DOD.

ACTION: Final rule; correction.

SUMMARY: This action corrects errors contained in 32 CFR Part 516, Litigation published in the **Federal Register** on July 27, 1994 (59 FR 38236).

DATES: Corrections are effective September 6, 1994.

ADDRESSES: Office of the Judge Advocate General, ATTN: Litigation Division, 901 North Stuart St., Arlington, VA 22203–1837.

FOR FURTHER INFORMATION CONTACT: Major Kelly Wheaton, (703) 696–1638.

Executive Order 12291 and Regulatory Flexibility Act

Under EO 12291 this final rule was declared non-major. It also does not have a significant impact on small entities as defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

This final rule does not contain new reporting or recordkeeping subject to the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 516

Litigation, military personnel, government employees.

For the reasons set out in the preamble, 32 CFR Part 516 is corrected to read as follows:

PART 516—LITIGATION

1. The authority for Part 516 continues to read as follows:

Authority: 5 USC 552, 10 USC 218, 1037, 1089, 1552, 1553, 2036; 18 USC 219, 3401; 28 USC 50, 513, 515, 543; 31 USC 3729; 41 USC 51; 42 USC 290, 2651; and 43 USC 666.

2. On page 38237, in the second column, in § 516.4, paragraph (b) is corrected to read as set forth below.

3. On the same page, in the third column, in § 516.4, paragraph (i) is corrected to read as set forth below.

4. On page 38238, in the second column, in § 516.4, paragraph (o) is corrected to read as set forth below:

§ 516.4 Responsibilities.

* * * * *

(b) The Judge Advocate General (TJAG). Subject to the ultimate control of litigation by DOJ (including the various U.S. Attorney Offices), and to the general oversight of litigation by the Army General Counsel, TJAG is responsible for litigation in which the Army has an interest except with respect to proceedings addressed in paragraph (i) of this section, only TJAG (or Chief, Litigation Division) will communicate to DOJ the army's position with regard to settlement of a case.

* * * * *

(i) Legal Representatives of the Chief of Engineers. The Office of Chief Counsel, attorneys assigned thereto, and other attorneys designated by the Chief Counsel will maintain direct liaison with DOJ and represent DA in litigation and administrative proceedings a rising from the navigation, civil works, Clean Water Act 404 permit authority, environmental response activities, and real property functions of the U.S. Army Corps of Engineers.

* * * * *

(o) Chief, Environmental Law Division, USALSA. The Chief, Environmental Law Division, attorneys assigned thereto, and other attorneys designated by the Chief, ELD, will maintain direct liaison with DOJ and represent DA in all environmental and natural resources civil litigation and administrative proceedings involving missions and functions of DA, its major and subordinate commands, installations presently or previously managed by DA, and other sites or issues in which DA has a substantial interest, except as otherwise specifically provided in this part.

* * * * *

§ 365.5 [Correctly designated as § 516.5].

5. On page 38238, in the second column, § 365.5 is correctly designated as § 516.5.

6. On page 38239, in the third column, in § 516.9, paragraph (b) is corrected to read as follows:

§ 516.9 Service of criminal process within the United States.

* * * * *

(b) Requests for witnesses or evidence in criminal proceedings. See subpart G to this part.

7. On page 38239, in the first column, in § 516.10, paragraph (b) is corrected to read as follows:

§ 516.10 Service of civil process within the United States.

* * * * *

(b) Request for witnesses or evidence in civil proceedings. See subpart G to this part.

* * * * *

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–21046 Filed 9–2–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG71

Claims Based on Exposure to Ionizing Radiation

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning diseases claimed to be the result of exposure to ionizing radiation. This amendment is necessary to implement recommendations by the Veterans Advisory Committee on Environmental Hazards (VACEH) that tumors of the brain and central nervous system be considered "radiogenic." The intended effect of this amendment is to add tumors of the brain and central nervous system to the list of radiogenic diseases for service-connected compensation purposes.

EFFECTIVE DATE: This amendment is effective September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Lorna Weston, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR 3.311(b)(2) to include tumors of the brain and central nervous system on the list of diseases VA will recognize as being radiogenic in the **Federal Register** of February 11, 1994 (59 FR 6607–08). Interested persons were invited to submit written comments, suggestions or objections concerning the proposal on or before April 12, 1994. As no comments were received, the proposed amendment is adopted without change.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved August 17, 1994.

Jesse Brown,

Secretary for Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.311(b)(2)(xviii), remove the word "and"; in § 3.311(b)(2)(xix), remove the period and add, in its place, the word "; and".

3. In § 3.311(b)(2), add paragraph (xx) to read as follows:

§ 3.311 Claims based on exposure to ionizing radiation.

* * * * *

(b) * * *

(2) * * *

(xx) Tumors of the brain and central nervous system.

* * * * *

[FR Doc. 94–21851 Filed 9–2–94; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 3

RIN 2900–AG47

Exclusions From Income

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulations concerning exclusions from income. The amendment implements an opinion of VA's General Counsel that the portion of the cash surrender value of a life insurance policy which represents a return of premiums should not be considered income under VA's improved pension program. The intended result is to ensure that countable income is correctly computed when VA determines entitlement to improved pension.

EFFECTIVE DATE: This amendment is effective October 6, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1993, VA published a proposal to amend 38 CFR 3.272 to exclude from income for improved pension purposes that portion of the proceeds from the cash surrender of a life insurance policy which represents a return of premiums (58 FR 65958–59). A technical correction extending the comment and review period was published in the **Federal Register** of January 4, 1994 (59 FR 278). Interested persons were invited to submit written comments, suggestions, or objections to the proposal on or before February 15, 1994. Since no comments were received, the proposed amendment is adopted without change.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.105.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: July 12, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.272, paragraph (q) and an authority citation are added to read as follows:

§ 3.272 Exclusions from income.

* * * * *

(q) *Cash surrender value of life insurance.* That portion of proceeds from the cash surrender of a life insurance policy which represents a return of insurance premiums.

(Authority: 38 U.S.C. 501(a))

[FR Doc. 94–21852 Filed 9–2–94; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–13–1–6558; FRL–5059–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On August 30, 1993 (58 FR 45451), EPA approved revisions to Missouri's rules 10 CSR 10–2.290 and 10 CSR 10–5.340, which apply to rotogravure and flexographic printing facilities in Kansas City, Missouri, and St. Louis, Missouri. Part 52 was amended to incorporate by reference the changes to those rules; however section (2), Definitions, from both rules was not included. This document is to correct the deficiency.

EFFECTIVE DATE: September 6, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 22, 1994.

William Rice,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by revising paragraph (c)(84)(i)(A) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(84) * * *

(i) * * *

(A) Revised regulations 10 CSR 10–2.290 (except section (6), Compliance Dates) and 10 CSR 10–5.340 (except section (6), Compliance Dates), both entitled Control of Emissions from Rotogravure and Flexographic Printing Facilities, effective February 6, 1992.

* * * * *

[FR Doc. 94–21818 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[FL–45–1–5927a:48–1–6197a; FRL–5055–5]

Approval and Promulgation of Implementation Plans Florida: Approval of Revisions for Human Crematory and Biological Waste Incineration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Florida State Implementation Plan (SIP) submitted by the State of Florida through the Florida Department of Environmental Protection (FDEP). These revisions incorporate animal crematory and human crematory regulations into the Florida SIP and were submitted on October 8, 1992, and December 9, 1992, respectively.

DATES: This final rule will be effective November 7, 1994 unless someone submits adverse or critical comments by October 6, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Resources Management Division, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, The telephone number is 404/347–2864.

SUPPLEMENTARY INFORMATION: EPA is approving revisions to the Florida SIP submitted by the State of Florida through the FDEP on October 8, 1992, and December 9, 1992. These revisions incorporate animal crematory and human crematory regulations into the Florida SIP. The following is a description of the revisions. The regulations are more fully discussed in the official SIP submittal that is available at the Region IV office listed under the "ADDRESSES" section of this document.

17–296.401–Specific Source Emission Limiting Standards

Amendments to this section were made to incorporate specific standards for animal crematories. The amendments impact only those units

with capacities equal to or less than 500 pounds per hour used exclusively to cremate dead animals. Included in the amendments is an emission standard for particulate matter of 0.080 grains per dry standard cubic foot of flue gas, corrected to 7% oxygen (O_2). Carbon monoxide (CO) emissions shall not exceed 100 parts per million by volume, dry basis, corrected to 7% O_2. Also included are minimum secondary temperature requirements that are more stringent than the standards applied to biohazardous waste incinerators of the same size. Limits on the amount of chlorinated plastics that can be incinerated and operator training requirements are also established to insure that the units are operated properly. This section was previously numbered 17–2.600.

17–297.330–Stationary Point Source Emission Test Procedures

Revisions were made in Table 297.330–1 to establish more specific parameters for substituting particulate and carbon monoxide emission data from identical sources. Due to the removal of human remains from the definition of biological waste, all references to human crematories were removed from the table. Also, EPA Method 26 was added as the test procedure for the hydrochloric acid standard. The numbering of the amendments has also been changed to correspond with the renumbering of Chapter 17–2, F.A.C. Rule section 17–297.330 was previously numbered 17–2.700 and the previous number for Table 297.330–1 was 700–1.

17–296.200–Definitions

The definition of a "human crematory" was added to this section. A human crematory is any combustion apparatus used solely for the cremation of dead human bodies with appropriate containers as described in Rule 17–296.401(5)(e), F.A.C. This rule section was previously number 17–2.100.

17–296.401–Incinerators

Amendments to this section have been made to incorporate specific standards for crematories. The amendments impact only those units used exclusively to cremate human remains in appropriate containers. No other material, including biological waste as defined in section 17–296.200, F.A.C., shall be incinerated. Included in the amendments is an emission standard for particulate matter and minimum secondary temperature requirements. Limits on the amount of chlorinated plastics that can be incinerated and operator training requirements are also established to ensure that the units are operated properly. This rule section was previously numbered 17–2.600.

17–297.330–Applicable Test Procedures

Table 297.330–1 was amended to include test procedures for human crematories. Test methods for visible emissions, carbon monoxide, oxygen, and particulate matter have been included. New facilities are required to do emissions testing prior to obtaining and renewing operating permits. Existing facilities must show initial compliance and do emissions testing prior to renewing operating permits. Human crematories may demonstrate compliance with the particulate and carbon monoxide emission standards by submission of test data from an identical source. This rule section was previously numbered 17–2.700.

17–297.500–Continuous Emission Monitoring Requirements

General requirements have been added for human crematories to install, operate, and maintain continuous monitors to record temperature at the point where 1.0 second gas residence time is obtained in the secondary chamber. A complete file must be maintained for at least two years following the recording of such measurements. This rule section was previously numbered17–2.710.

Final Action

In this action, EPA is approving the aforementioned biological waste regulations submitted by the State of Florida through the FDEP on October 8, 1992, and December 9, 1992. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 7, 1994 unless, by October 6, 1994, adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 7, 1994.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but

simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 27, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(82) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(82) Revisions to chapter 17–296 and 17–297 of the Florida Administrative Code (FAC) regarding animal crematories and human crematories submitted on October 8, 1992, and December 9, 1993, respectively.

(i) Incorporation by reference.

(A) Amendments to FAC 17–2.600(d) and 17–2.700 and Table 700–1, adopted September 24, 1992.

(B) Amendments to FAC 17–296.200(84), 17–296.401(5), 17–297.330, Table 17–297.330–1 and 17–297.500(7), adopted November 12, 1992.

(ii) Additional information. None.

* * * * *

[FR Doc. 94–21907 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 52 and 81

[WV24–1–6585, WV24–1–6586; FRL–5057–2]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Parkersburg, WV Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 13, 1992, the West Virginia Department of Commerce, Labor and Environmental Resources; Division of Environmental Protection; Office of Air Quality (WVOAQ) submitted a request to EPA to redesignate the Parkersburg moderate ozone nonattainment area (Wood County) from nonattainment to attainment and also submitted a maintenance plan for the Parkersburg area as a revision to the West Virginia State Implementation Plan (SIP). On June 10, 1994, EPA proposed approval of West Virginia's redesignation request and maintenance plan. No adverse comments were received on the proposal. EPA is approving West Virginia's request to redesignate the Parkersburg moderate ozone nonattainment area from nonattainment to attainment and is approving the maintenance plan submitted by WVOAQ as a revision to the West Virginia SIP because relevant requirements set forth in the Clean Air Act, as amended in 1990, have been met. This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule will become effective on September 6, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Michael Dubowe at (215) 597–1109 Todd Ellsworth at (215) 597–2906

SUPPLEMENTARY INFORMATION: On June 10, 1994 (59 FR 29977), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed that the Parkersburg moderate ozone nonattainment area be redesignated from nonattainment to attainment and that the maintenance plan submitted by the WVOAQ as a revision to the West Virginia SIP be approved contingent upon West Virginia's submittal of a revision to its maintenance plan's provisions to clarify the procedure for implementation of contingency measures. The formal request for the redesignation of the Parkersburg moderate ozone nonattainment area from nonattainment to attainment and the maintenance plan SIP revision were submitted to EPA by the State of West Virginia on November 13, 1992. Subsequent revisions to the State's maintenance plan were submitted to EPA on February 28, 1994 and August 10, 1994.

Maintenance Plan

West Virginia's August 10, 1994 submittal revised the maintenance plan to clarify the State's enforceable procedures for implementation of contingency measures specified in the maintenance plan. The revision requires that one or more of the "contingency measures" listed and described in the maintenance plan shall be selected within three months after verification of a violation of the ozone national ambient air quality standard. The regulatory measures shall be adopted as emergency rules and implemented within six months after adoption. In accordance with West Virginia law, the provisions of these emergency regulations are fully enforceable. The emergency rule(s), subsequently, will be filed as legislative rule(s) for permanent authorization by the legislature in accordance with West Virginia law.

EPA is approving the State of West Virginia's maintenance plan for the Parkersburg area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the CAA.

Errors and Corrections

The NPR for the Parkersburg redesignation request and maintenance plan SIP revision published in the **Federal Register** on June 10, 1994 (59 FR 29977–29982) contains several errors that are corrected as follows:

Summary, 59 FR 29977. The third sentence of this section reads ". . . West Virginia submitted an update to its November 13, 1994 submittal." The date in this sentence should have read November 13, 1992.

Section I—Background, 59 FR 29977 and 29978. This section states that the Parkersburg area was designated under section 107 of the CAA as an ozone nonattainment area on September 12,

1978 (40 CFR 81.347). It should be noted that in the September 12, 1978 Final Rule the Air Quality Control Region (AQCR) IV (Kanawha County and portions of Fayette County) was the only area designated as an ozone nonattainment area and the remainder of the State, including Parkersburg, was designated as attainment or unclassifiable for the ozone NAAQS. This section further states that West Virginia submitted a SIP projecting attainment by December 31, 1982 and failed to meet the deadline. This statement is incorrect, invalidating the subsequent language referring to Parkersburg as a nonattainment area. The Parkersburg area remained in attainment of the ozone NAAQS until 1988. As a result of calendar year 1988 ambient ozone measurements, EPA notified West Virginia on November 8, 1989 that the State's ozone SIP was inadequate to assure attainment of the ozone NAAQS in several counties including the Parkersburg/Wood County area. As a result of the 1990 amendments to the CAA, Wood County was officially designated as a moderate ozone nonattainment area on January 6, 1991.

Section III. Review of West Virginia's Submittal, subsection 5.B., 59 FR 29980. This section states that "In addition to the continued use of lower RVP gasoline (7.8) . . .". The 7.8 in this sentence should have read 9.0.

This section further states that ". . . emissions projections are dependent upon the implementation of the federal reformulated gasoline program.". This statement is incorrect. West Virginia's maintenance plan did not commit to the use of or rely on credits from the federal reformulated gasoline program.

Other specific requirements of the Parkersburg ozone nonattainment area redesignation request and associated maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. All of the public comments received on the NPR were positive and in support of EPA's action to approve the redesignation request and maintenance plan.

Final Action

EPA is approving West Virginia's request to redesignate the Parkersburg moderate ozone nonattainment area from nonattainment to attainment because the agency has determined that the provisions of section 107(d)(3)(E) of the CAA for redesignation of nonattainment areas to attainment have been met. In addition, EPA is approving the ozone maintenance plan for the Parkersburg area as a revision to the West Virginia SIP because it meets the requirements of 175A.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, to approve the maintenance plan for the Parkersburg area and to redesignate the Parkersburg ozone nonattainment area to attainment, must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1994.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

Chapter I, title 40 of the code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(31) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(30) The ten year ozone maintenance plan including emission projections and contingency measures for Parkersburg, West Virginia (Wood County) as revised and effective on August 10, 1994 and submitted by the West Virginia Division of Environmental Protection; Office of Air Quality:

(i) Incorporation by reference.

(A) The ten year ozone maintenance plan including emission projections and contingency measures for Parkersburg, West Virginia (Wood County) revised and effective on August 10, 1994.

PART 81—[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.349 the ozone table is amended by revising the entry for "Wood County" to read as follows:

§ 81.349 West Virginia.

* * * * * *

WEST VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Parkersburg/Marietta Area, Wood County.	October 6, 1994	Unclassifiable/Attainment		

[1] This date is November 15, 1990 unless otherwise noted.

[FR Doc. 94–21948 Filed 9–2–94; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[WV23–1–6421a, WV23–2–6422a; FRL–5060–4]

Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Redesignation of the Huntington, WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This SIP revision approves a maintenance plan for the Huntington area including contingency measures which provide for continued attainment of the ozone National Ambient Air Quality Standard (NAAQS). The intended effect of this action is to approve a redesignation request and maintenance plan for the Huntington area. This action will also remove any sanctions imposed on the Huntington area under section 179 of the Clean Air Act, as amended in 1990 (the Act). On November 12, 1992, the West Virginia Department of Commerce, Labor and Environmental Resources; Division of Environmental Protection (WVDEP) submitted a request to redesignate the Huntington portion (Cabell and Wayne counties) of the multi-state Huntington-Ashland moderate ozone nonattainment area from nonattainment to attainment. On November 12, 1992, the WVDEP also submitted a maintenance plan for the Huntington area as a revision to the West Virginia State Implementation Plan. On February 22, 1994, and August 10, 1994 WVDEP provided clarifying revisions to its maintenance plan. The Kentucky portion of the Huntington-Ashland nonattainment area includes Boyd County and a portion of Greenup County. Kentucky's request for redesignation and the maintenance plan for the Ashland, Kentucky portion of the nonattainment area has been submitted to EPA and is the subject of a separate rulemaking document. This action is being taken under sections 107 and 110 of the Act. In this action, EPA is redesignating the Huntington moderate ozone nonattainment area to attainment and is approving the maintenance plan submitted by the WVDEP as a SIP revision to the West Virginia SIP.

DATES: This final rule will become effective October 21, 1994 unless before October 6, 1994 adverse comments are submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Radiation and Toxics Division, U.S. Environmental Protection Agency; Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East Charleston, West Virginia, 25311–2599.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp at (215) 597–8375 or Todd Ellsworth at (215) 597–2906.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990 the Clean Air Act Amendments of 1990 (the Act) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Under section 107(d)(1) of the Act, in conjunction with the Governor of West Virginia, EPA was required to designate the Huntington area as nonattainment because the area violated the ozone standard in 1987–1989. Under section 107(d)(1)(C), EPA designated Boyd County of Kentucky as nonattainment by operation of law with respect to ozone because the area was designated nonattainment before the date of enactment of the 1990 amendments to the Act. The nonattainment area was expanded to include portions of Greenup County of Kentucky per section 107(d)(1)(A)(i) (See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.318.) Furthermore, the Huntington-Ashland area was classified as a multi-state moderate ozone nonattainment under section 181(a)(1) of the Act. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.349.

Air quality monitored data recorded in the West Virginia portion of the area met the ozone NAAQS from 1989–1991 and has subsequently continued to indicate attainment and maintenance through 1993. West Virginia submitted an ozone maintenance SIP and redesignation request on November 12, 1992. The Kentucky portion attained the ozone NAAQS, based on air quality data from 1991 through 1993. West Virginia submitted a revision to its maintenance plan on February 22, 1994. This revision was done to include ambient monitoring data from 1991–1993 indicating attainment throughout the entire nonattainment area including Kentucky's portion. A second revision to the maintenance plan was provided on August 10, 1994 which clarified the procedures for implementation of the contingency measures of West Virginia's maintenance plan.

II. Review of West Virginia's Submittal

Following is a brief description of how the State of West Virginia's November 12, 1992 submittal along with the additional revisions to the maintenance plan of February 22, 1994 and August 10, 1994 fulfill the five

requirements of section 107(d)(3)(E) of the Act. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request. A Technical Support Document (TSD) has also been prepared by EPA on these rulemaking actions. The TSD is available for public inspection at the EPA Regional office listed in the ADDRESSES section of this document.

1. Attainment of the Ozone NAAQS

The submittal contains an analysis of ozone air quality data which is relevant to the maintenance plan and to the redesignation request for the entire Huntington-Ashland nonattainment area. Ambient ozone monitoring data for 1989 through 1991 show attainment of the ozone NAAQS in the Huntington, West Virginia area. Ambient ozone monitoring data for 1991 through 1993 show attainment of the ozone NAAQS for the entire Huntington-Ashland area. See 40 CFR 50.9 and appendix H. The State of West Virginia's request for redesignation included documentation that the entire area has complete quality assured data showing attainment of the standard over the most recent consecutive three calendar year period. Therefore the area has met the first statutory criterion of attainment of the ozone NAAQS. West Virginia has also met the second statutory criterion by committing to continue monitoring the moderate nonattainment area in accordance with the Act's requirements as prescribed in 40 CFR part 58.

2. Meeting Applicable Requirements of Section 110 and Part D

As previously stated, EPA fully approved the State of West Virginia SIP for the Huntington, West Virginia area as meeting the requirements of section 110(a)(2) and part D of the 1977 Act. The Clean Air Act Amendments of 1990, however, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, EPA has reviewed the SIP and determined that it contains all measures that were due under the Act prior to November 12, 1992, the date the State of West Virginia submitted its redesignation request satisfying the completeness criteria of 40 CFR part 51 appendix V.

2.A. Section 110 Requirements

Although Section 110 of the 1977 Act was amended in 1990, the Huntington, West Virginia SIP meets the requirements of section 110(a)(2) of the amended Act. A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended, See 57 FR 27936 and 23939 (June 23, 1993), many are duplicative of other requirements of the Act. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2) of the Act. The SIP contains enforceable emission limitations adequate to produce attainment, requires monitoring, compiling, and analyzing ambient air quality data. It provides for adequate funding, staff, and associated resources necessary to implement SIP requirements, and requires stationary source emissions monitoring and reporting. Once the redesignation to attainment is approved, the Act requires that provisions for the prevention of significant deterioration (PSD) apply for the preconstruction review of new major stationary sources and major modifications to existing ones. EPA approved West Virginia's PSD program on April 11, 1986 (51 FR 12517) which, under the approved SIP, applies in all designated attainment areas.

2.B. Part D Requirements

2.B.1. Subpart 1 of Part D—Section 172(c) Plan Provisions

Under section 172(b), the section 172(c) requirements are applicable no later than three years after an area has been designated as nonattainment under the Act. EPA has determined that these requirements were not applicable to ozone nonattainment areas on or before November 12, 1992—the date the State of West Virginia submitted a complete redesignation request and maintenance plan for Huntington. West Virginia has, however, completed and submitted a 1993 base year emissions inventory for the Huntington ozone nonattainment area in accordance with EPA's guidance. The year 1993 was chosen as the base year to correspond with the base year being used by Kentucky for the Ashland portion of the area. The year 1993 is the base year from which emissions have been projected through the year 2005 in the maintenance plan.

2.B.2. Subpart 1 of Part D—Section 176 Conformity Plan Provisions

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of title I informed State that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of West Virginia is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule November 25, 1994. Similarly, West Virginia is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not yet applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

2.B.3. Subpart 2 of part D—Section 182 Provisions for Ozone Nonattainment Areas

The Huntington-Ashland nonattainment area is classified as moderate and is subject to the requirements of section 182(b) of the Act. As of November 12, 1992, the State was required to meet the provisions of section 182(a)(2)(A) to correct its Reasonably Available Control Technology (RACT) requirements to control volatile organic compounds (VOCs) in effect prior to enactment of the 1990 amendments. The State of West Virginia submitted those RACT corrections as SIP revisions to EPA on June 4, 1991. A notice of final

rulemaking approving these RACT corrections was published on September 17, 1992 (57 FR 42895).

3. Fully Approved SIP Under Section 110(k) of the Act

As stated previously, EPA has approved the RACT corrections noted above. Therefore, the State of West Virginia has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and part D as discussed above. Therefore, the redesignation requirement of section 107(d)(3)(E)(ii) has been met.

4. Improvement in Air Quality Due to Permanent and Enforceable Measures

Under the 1977 Act, EPA approved the State of West Virginia SIP control strategy for the Huntington, West Virginia nonattainment area. EPA determined that the rules and the emission reductions achieved as a result of those rules are enforceable. As stated above, since enactment of the 1990 amendments the State of West Virginia submitted revisions to its RACT regulations—Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds ("Series 21"). EPA finds that these additional measures contribute to the permanence and enforceability of reductions in ambient ozone levels in the Huntington, West Virginia area.

Several other enforceable control measures have come into place since the Huntington, West Virginia area violated the ozone NAAQS. Reductions in ozone precursor emissions occurred due to the mandatory lowering of fuel volatility and automobile fleet turnover due to the Federal Motor Vehicle Control Program. The Reid Vapor Pressure (RVP) of gasoline decreased during the years 1988 to 1990 from 10.5 pounds per square inch (psi) to 9.5 psi and continued to decrease from 9.5 psi in 1990 to 9.0 psi in 1992. Reductions due to these programs were determined using the mobile emission inventory model MOBILE 5.0a and relevant vehicle miles traveled (VMT) data. As a result of these permanent and enforceable reductions, emissions of VOCs decreased by 1.1 tons/day (1988–1990) and by 2.2 tons/day (1990–1992) in the Huntington area. Emissions of nitrogen oxides (NO_X) were reduced by 0.3 tons/day and 0.4 tons/day during the same periods respectively in this area. The State of West Virginia's maintenance plan requires the continuation of the federal RVP program. The State demonstrated that point source VOC emissions were not artificially low due to local economic downturn during the period in which Huntington area air quality came into attainment. Reductions due to decreases in production levels or from other unenforceable scenarios such as voluntary reductions were not included in the determination of the emission reductions.

EPA finds that the combination of measures contained in the SIP and federal measures have resulted in permanent and enforceable reductions in ozone precursors that have allowed the Huntington-Ashland area to attain the NAAQS, and therefore, that the redesignation criterion of section 107(d)(3)(E)(iii) has been met.

5. Fully approved Maintenance Plan Under Section 175A

EPA is approving the West Virginia maintenance plan for the Huntington, West Virginia area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the Act. The Huntington, West Virginia area will have a fully approved maintenance plan in accordance with Section 175A of the Act. Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the area is redesignated. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

5.A. Emissions Inventory—Base Year Inventory

On November 12, 1992, the state of West Virginia submitted comprehensive inventories of VOC and NO_X emissions from area, stationary, and mobile sources using 1990 as the base year for calculations to demonstrate maintenance. Since this area is part of a multi-state area, West Virginia projected their 1990 inventory to 1993 in order to have a corresponding attainment base year with Kentucky. The 1993 VOC, NO_X, and CO inventory is considered most representative of attainment conditions because no violations occurred in 1993, and it reflects the typical inventory for the three-year period demonstrating attainment of the standard for the entire Huntington-Ashland area.

West Virginia's submittal contains the detailed inventory data and summaries by county and source category. West Virginia's submittal also contains information related to how it comported with EPA's guidance, which model and emission factors were used (note MOBILE 5.0a was used), how VMT data was generated, what RVP was considered in the base year, and other technical information verifying the validity of the Huntington, West Virginia emission inventory.

A summary of the base year and projected maintenance year inventories are shown in the following two tables in section 5.B. The TSD which has been prepared for this action contains a more in-depth description of the base year inventory for the Huntington area.

5.B. Demonstration of Maintenance—Projected Inventories

As summarized in the following tables, totals for VOC and NO_X emissions were projected from the 1990 and 1993 base years out to the year 2005. These projected inventories were prepared in accordance with EPA guidance. The projections demonstrate that the ozone standard will be maintained. i.e., emissions within the Huntington area are not expected to exceed the level of the base year attainment inventory during this time period. EPA believes that the emissions projections demonstrate that the area will continue to maintain the ozone NAAQS because this area achieved attainment through VOC controls and reductions. Finally, EPA's TSD contains more in-depth details regarding the projected emission inventories for the Huntington area.

HUNTINGTON VOC PROJECTION INVENTORY SUMMARY

[Tons per day]

	1990 base	1993 Attain base	1996 proj	1999 proj	2002 proj	2005 proj
Point	13.3	12.6	11.8	11.6	11.5	11.4
Area	16.7	17.0	15.9	16.2	16.5	16.9
Mobile	12.2	10.1	9.6	9.2	9.0	9.0
Total	42.3	39.6	37.2	37.0	37.0	37.2

HUNTINGTON NO_X PROJECTION INVENTORY SUMMARY

[Tons per day]

	1990 base	1993 attain base	1996 proj	1999 proj	2002 proj	2005 proj
Point	15.9	15.9	13.9	14.1	14.2	14.3

HUNTINGTON NO_X PROJECTION INVENTORY SUMMARY—Continued

[Tons per day]

	1990 base	1993 attain base	1996 proj	1999 proj	2002 proj	2005 proj
Area	13.3	13.4	13.4	13.5	13.5	13.6
Mobile	10.7	10.3	10.0	9.7	9.5	9.7
Total	39.9	39.5	37.3	37.3	37.2	37.6

As indicated in the previous tables, projections indicate that there was an emissions decrease in VOCs and NO_X in the nonattainment area. EPA believes that these emissions projections demonstrate that the nonattainment area will continue to maintain the ozone NAAQS.

5.C. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in the Huntington area depends, in part, on the State of West Virginia's efforts toward tracking indicators of continued attainment during the maintenance period. The State of West Virginia will track the status and effectiveness of the maintenance plan by periodically updating the emissions inventory every three years. West Virginia has committed to perform this tracking on an annual basis in order to enable the State of West Virginia to implement the contingency measures of its maintenance plan as expeditiously as possible.

The State of West Virginia annual update will indicate new source growth, as indicated by annual emission statements. The State of West Virginia will continue to monitor ambient ozone levels by operating its ambient ozone air quality monitoring network in accordance with 40 CFR part 58.

5.D. Contingency Plan

The level of VOC and NO_x emissions in the Huntington area will largely determine its ability to stay in compliance with the ozone NAAQS. Despite the State of West Virginia's best efforts to demonstrate continued compliance with the NAAQS, the Huntington area may exceed or violate the NAAQS. Therefore, West Virginia has provided contingency measures with a schedule for implementation in the event of future ozone air quality problems. In the event that exceedances of the ozone NAAQS are measured such that nonattainment is indicated at any of the three monitors in the Huntington-Ashland area, or in the event that periodic emission inventory updates or major permitting activity reveals that excessive or unanticipated growth in ozone precursor emissions has occurred or will occur, West Virginia will accordingly select and adopt additional measures including one or more of the following to assure continued attainment:

1. An extension of the applicability of 45CSR21 (VOC/RACT rule) to include source categories previously excluded
2. A revision to new source permitting requirements requiring more stringent emissions control technology and/or emission offsets
3. NO_X RACT requirements if such requirements are not already applicable
4. Regulations to establish plant-wide emission caps (potentially with emissions trading provisions)
5. Stage II Vapor Recovery regulations
6. Highway Motor Vehicle Inspection and Maintenance Program

One or more of these regulatory revisions would be selected and a draft regulation(s) developed by the West Virginia Division of Environmental Protection (WVDEP) for adoption as an emergency rule(s) within three (3) months after verification of a monitored ozone standard violation. WVDEP's adopted emergency rule(s) for the selected control measure(s) will be implemented within six (6) months after adoption and will be filed as legislative rule(s) for permanent authorization by the legislature as required under West Virginia law.

5.E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State of West Virginia has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years. EPA has determined that the maintenance plan adopted by the State of West Virginia and submitted to EPA on November 12, 1992 along with additional information submitted on February 22, 1994 and August 10, 1994 meets the requirements of section 175A of the CAA. Therefore, EPA is approving the maintenance plan.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

This action will be effective October 21, 1994 unless by October 6, 1994, adverse comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 21, 1994.

Final Action

EPA is approving the ozone maintenance plan for the Huntington (Cabell and Wayne counties) area of West Virginia submitted on November 12, 1992, as revised on February 22, 1994 and August 10, 1994 because it meets the requirements of Section 175A. In addition, the Agency is redesignating the Huntington area to ozone attainment because the Agency has determined that the provisions of Section 107(d)(3)(E) of the Act for redesignation have been met.

The Huntington portion of the Huntington-Ashland nonattainment area is subject to the Act's requirements for nonattainment areas until and unless it is redesignated to attainment. Because it is a nonattainment area, on January 15, 1993 EPA notified the Governor of West Virginia that it had made a finding that West Virginia had failed to submit either a full or committal SIP revision for a basic inspection and maintenance (I/M) program for the Huntington portion of the ozone nonattainment area. Similarly on January 18, 1994, EPA notified the Governor that West Virginia had failed to submit a 15% plan for the area. These findings commenced the sanctions process outlined by section 179 of the Act. The 2:1 offset sanction will be in effect in the Huntington area as of September 6, 1994 as a result of the January 15, 1993 finding. Upon the effective date of this final approval by EPA of West Virginia's redesignation request and maintenance plan, the requirement for West Virginia to submit a basic I/M program and 15% plan for this area will be lifted. Upon that same effective date, both findings will be automatically rescinded in the Huntington area and any sanctions imposed as of that date will be lifted.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities. SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP Approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. Union Electric Co. v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from the requirements of section 6 of Executive Order 12866.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve West Virginia's redesignation request and maintenance plan for the Huntington portion of the Huntington-Ashland ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National Parks, Wilderness Areas.

Dated: August 19, 1994.

John R. Pomponio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(30) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(30) The ten year ozone maintenance plan including emission projections and contingency measures for Huntington, West Virginia (Cabell and Wayne counties) as revised and effective on August 10, 1994 and submitted by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) The ten year ozone maintenance plan including emission projections and contingency measures for Huntington, West Virginia (Cabell and Wayne counties) revised and effective on August 10, 1994.

40 CFR part 81, subpart B of Chapter I, Title 40 is amended as follows:

PART 81—[AMENDED]

Subpart B—Designation of Air Quality Control Regions

1. In § 81.349, the ozone table is amended by revising the entries for "Cabell County" and "Wayne County" to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date	Type
Huntington-Ashland Area:				
Cabell County	October 21, 1994	Unclassifiable/Attainment		
Wayne County	October 21, 1994	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 94–21949 Filed 9–2–94; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[WV9–1–6583, WV9–2–6584; FRL–5057–1]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Charleston, WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 13, 1992, the West Virginia Department of Commerce, Labor and Environmental Resources; Division of Environmental Protection; Office of Air Quality (WVOAQ) submitted a request to EPA to redesignate the Charleston moderate ozone nonattainment area (Kanawha and Putnam Counties) from nonattainment to attainment and also submitted a maintenance plan for the Charleston area as a revision to the West Virginia State Implementation Plan (SIP). On June 13, 1994, EPA proposed approval of West Virginia's redesignation request and maintenance plan. No adverse comments were received on the proposal. EPA is approving West Virginia's request to redesignate the Charleston moderate ozone nonattainment area from nonattainment to attainment and is approving the maintenance plan submitted by WVOAQ as a revision to the West Virginia SIP because relevant requirements set forth in the Clean Air Act, as amended in 1990, have been met. This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule will become effective September 6, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Michael Dubowe at (215) 597–1109, Todd Ellsworth at (215) 597–2906.

SUPPLEMENTARY INFORMATION: On June 13, 1994 (59 FR 30326–30331), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed that the Charleston moderate ozone nonattainment area be redesignated from nonattainment to attainment and that the maintenance plan submitted by the WVOAQ as a revision to the West Virginia SIP be approved contingent upon West Virginia's submittal of a revision to its maintenance plan's provisions to clarify the procedures for implementation of contingency measures. The formal request for the redesignation of the Charleston moderate ozone nonattainment area from nonattainment to attainment and the maintenance plan SIP revision were submitted to EPA by the State of West Virginia on November 13, 1992. Subsequent revisions to the State's maintenance plan were submitted to EPA on February 28, 1994 and August 10, 1994.

Maintenance Plan

West Virginia's August 10, 1994 submittal revised the maintenance plan to clarify the State's enforceable procedures for implementation of contingency measures specified in the maintenance plan. The revision requires that one or more of the "contingency measures" listed and described in the maintenance plan shall be selected within three months after verification of a violation of the ozone national ambient air quality standard. The regulatory measures shall be adopted as emergency rules and implemented within six months after adoption. In accordance with West Virginia law, the provisions of these emergency regulations are fully enforceable. The emergency rule(s), subsequently, will be filed as legislative rule(s) for permanent authorization by the legislature in accordance with West Virginia law.

EPA is approving the State of West Virginia's maintenance plan for the Charleston area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the CAA.

Errors and Corrections

The NPR for the Charleston redesignation request and maintenance plan SIP revision published in the **Federal Register** on June 13, 1994 (59 FR 30326–30331) contains several errors that are corrected as follows:

Summary, 59 FR 30326. The third sentence of this section reads "* * * West Virginia submitted an update to its November 13, 1994 submittal." The date in this sentence should have read November 13, 1992.

Section I—Background, 59 FR 30326 and 30327. This section states that West Virginia submitted a SIP projecting attainment by December 31, 1982 and failed to meet that deadline. This statement is incorrect, invalidating the subsequent language referring to Charleston as a nonattainment area for that period. On November 25, 1980, West Virginia requested that the EPA approve a change in the Designation of Air Quality Control Region (AQCR) IV from nonattainment of the ozone NAAQS to attainment based on air quality data showing attainment for the years 1978–1980. EPA approved this request in the November 9, 1981 **Federal Register** (46 FR 55261). The area remained in attainment of the ozone NAAQS until 1988. As a result of 1988 calendar year ambient ozone measurements, EPA notified West Virginia on November 8, 1989 that the State's ozone SIP was inadequate to assure the attainment of the ozone NAAQS in several counties including the Charleston (Kanawha/Putnam County) area. Pursuant to the 1990 Clean Air Act amendments, this area was officially designated as a moderate ozone nonattainment area on January 6, 1991.

Section III. Review of West Virginia's Submittal, subsection 5.B., 59 FR 30330. This section states that "* * * emissions projections are dependent upon the implementation of the federal reformulated gasoline program." This statement is incorrect. West Virginia's maintenance plan did not commit to the use of or rely on credits from the federal reformulated gasoline program.

Other specific requirements of the Charleston ozone nonattainment area redesignation request and associated maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. All of the public comments received on the NPR were positive and in support of EPA's action to approve the redesignation request and maintenance plan.

Final Action

EPA is approving West Virginia's request to redesignate the Charleston moderate ozone nonattainment area from nonattainment to attainment because the agency has determined that the provisions of section 107(d)(3)(E) of the Act for redesignation of nonattainment areas to attainment have been met. In addition, EPA is approving the ozone maintenance plan for the Charleston area as a revision to the West

Virginia SIP because it meets the requirements of 175A.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, to approve the maintenance plan for the Charleston area and to redesignate the Charleston ozone nonattainment area to attainment, must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1994.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(32) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(29) The ten year ozone maintenance plan including emission projections and contingency measures for Charleston, West Virginia (Kanawha and Putnam Counties), as revised and effective on August 10, 1994 and submitted by the West Virginia Division of Environmental Protection; Office of Air Quality:

(i) Incorporation by reference.

(A) The ten year ozone maintenance plan including emission projections and contingency measures for the Charleston, West Virginia (Kanawha and Putnam Counties) revised and effective August 10, 1994.

PART 81—[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Subpart C—Section 107 Attainment Status Designation

4. In § 81.349 the ozone table is amended by revising the entries for "Kanawha County" and Putnam County" under Charleston Area to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date	Type
Charleston Area Kanawha County.	October 6, 1994	Unclassifiable/Attainment	.....	.....
Putnam County	October 6, 1994	Unclassifiable/Attainment	.....	.....

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 94–21947 Filed 9–2–94; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 272

[FRL–5059–1]

Hazardous Waste Management Program: Incorporation by Reference of Approved State Hazardous Waste Program for Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant final authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 Code of Federal Regulations (40 CFR part 272) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA section 3008. Thus, EPA intends to codify the Minnesota authorized State program in 40 CFR part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to Minnesota's program.

DATES: This document will be effective November 7, 1994, unless EPA publishes a prior Federal Register (FR) action withdrawing this immediate final rule. All comments on this action must be received by the close of business October 6, 1994. The incorporation by reference of certain Minnesota statutes and regulations was approved by the Director of the Federal Register as of November 7, 1994, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Written comments should be sent to Mr. Gary Westefer, Minnesota Regulatory Specialist, Office of RCRA,

USEPA, Region V, 77 West Jackson, HRM–7J, Chicago, Illinois 60604, (312) 886–7450.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Westefer, Minnesota Regulatory Specialist, Office of RCRA, USEPA, Region V, 77 West Jackson, HRM–7J, Chicago, Illinois 60604, (312) 886–7450.

SUPPLEMENTARY INFORMATION:

Background

Effective July 14, 1989 (see 54 FR 20851), May 15, 1990 (see 55 FR 9880), and December 14, 1992 (see 57 FR 47265), EPA incorporated by reference Minnesota's then authorized hazardous waste program. Effective May 17, 1993 (58 FR 14321), and March 21, 1994 (59 FR 2998), EPA granted authorization to Minnesota for additional program revisions. In this document, EPA is incorporating the currently authorized State hazardous waste program in Minnesota.

EPA provides both notice of its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in Minnesota.

Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The incorporation by reference of Minnesota's authorized program in subpart Y of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's incorporation by reference of Minnesota's authorized hazardous waste program, see 54 FR 20851 (May 15, 1989).

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action is intended to incorporate by reference the decision already made to authorize Minnesota's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: April 5, 1994.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart Y—[Amended]

2. Section 272.1200 is removed and reserved.

3. Section 272.1201 is revised to read as follows:

§ 272.1201 Minnesota State administered program; Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Minnesota has final authorization for the following elements as submitted to EPA in Minnesota's base program and revision application for final authorization as approved by EPA effective on February 11, 1985. Subsequent program revision applications were approved effective on September 18, 1987, June 23, 1989, August 14, 1990, August 23, 1991, May 18, 1992, May 17, 1993, and March 21, 1994.

(a) State statutes and regulations. (1) The Minnesota statutes and regulations cited in appendix A are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) EPA Approved Minnesota Statutory Requirements Applicable to the Hazardous Waste Management Program, dated April 5, 1994.

(ii) EPA Approved Minnesota Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated April 5, 1994.

(2) The following statutes and regulations concerning State enforcement, although not incorporated by reference for enforcement purposes, are part of the authorized State program: Minnesota Statutes, Chapters 14.02–14.56; 115.07 Subdivisions 1 and 3; 115.071, 116.091; 116.11, and 116B.09 (June 1992 edition).

(b) [Reserved]

4. Appendix A to part 272, is amended by adding in alphabetical order "Minnesota" and its listing to read as follows:

Appendix A to Part 272—State Requirements

Minnesota

* * * * *

The statutory provisions include: Minnesota Statutes, June 1992 edition, Chapters 13.03; 13.05 Subdivision 9; 13.08; 13.37; 15.17; 15.171; 115.061; 115A.03; 116.06; 116.07 Subdivisions 4, 4a, 4b, 5 and 8; 116.075; 116.081 Subdivisions 1 and 3; and 116.14.

The regulatory provisions include: Minnesota Rules, June 1992 edition, 7001.0010; 7001.0020(B); 7001.0030–7001.0150(3)(C); 7001.0150(3)(E)–7001.0200; 7001.0500–7001.0730(2); 7001.0730(4); 7045.0020–7045.0143; 7045.0205–7045.0270(6); 7045.0275–7045.0310; 7045.0351–7045.0685; 7045.0692–7045.0695; 7045.1300–7045.1380 (June 1992 edition).

* * * * *

[FR Doc. 94–21894 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43–CFR Public Land Order 7081

[OR–943–4210–06; GP4–108; OR–48744]

Withdrawal of Public and Non-Federal Lands for the Eagle Rock and Leaburg Lake Sections of the McKenzie River; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 292.25 acres of public lands and 159.41 acres of non-Federal lands, which will be

acquired by exchange, from surface entry and mining for a period of 50 years for the Bureau of Land Management to protect the Eagle Rock and Leaburg Lake Sections of the McKenzie River located in Lane County. The minerals in 53.35 acres of public lands are non-Federal, and will be acquired by exchange. Upon acquisition, the 159.41 acres of non-Federal lands and the 53.35 acres of non-Federal minerals will be opened to mineral leasing. The 238.90 acres of public lands have been and remain open to mineral leasing.

EFFECTIVE DATE: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–280–7162.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the significant scenic, wildlife, fisheries, and recreational values along the McKenzie River:

Willamette Meridian

Public Domain Lands, Federal Minerals

Eagle Rock Section

T 17 S., R. 3 E.,
Sec. 10, lots 4 and 5, SE¼NW¼, and that portion of the N½SE¼ described as follows: Beginning at the east one quarter corner of said sec. 10; Thence along the north line of the SE¼ south 89°1′55″ west 2,592.50 feet to the center of sec. 10; Thence along the west line of the SE¼ south 00°51′27″ east 230.97 feet; Thence south 71°32′28″ east 171.61 feet; Thence south 31°10′49″ east 272.59 feet; Thence north 54°03′58″ east 150.37 feet; Thence north 44°58′06″ east 136.39 feet; Thence north 79°24′46″ east 211.20 feet; Thence south 52°08′02″ east 156.48 feet; Thence south 78°47′26″ east 204.25 feet; Thence north 77°12′21″ east 239.97 feet; Thence south 85°25′02″ east 249.56 feet; Thence south 64°51′38″ east 190.59 feet; Thence south 43°58′08″ east 278.95 feet; Thence south 76°45′59″ east 72.41§feet; Thence south 61°24′24″ east 164.01 feet; Thence south 70°45′40″ east 263.35 feet; Thence south 68°01′23″ east 206.56 feet; Thence south 63°39′19″ east 58.06 feet to the section line; Thence along the section line north 01°10′17″ west 996.84 feet to the point of beginning;
Sec. 11, that portion of the NW¼SW¼ described as follows: Beginning at the west one quarter corner of said sec. 11; Thence along the section line south 01°10′17″ east 996.84 feet; Thence south 63°39′19″ east 111.86 feet; Thence north 69°28′36″ east 208.20 feet; Thence north 39°02′30″ east 199.57 feet; Thence north 82°56′58″ east 175.34 feet; Thence south 72°50′23″ east 265.76 feet; Thence north 66°07′42″ east 298.03 feet; Thence north 79°22′51″ east 94.10 feet; Thence north 47°29′53″ east 124.60 feet to the east line of the NW¼SW¼ of said sec. 11; Thence along said east line north 0°40′06″ west 630.58 feet to the northeast corner of the NW¼SW¼; Thence along the north line of the NW¼SW¼ north 89°01′20″ west 1,318.99 feet to the point of beginning.

The areas described aggregate 139.20 acres in Lane County.

Revested Oregon and California Railroad Grant Lands, Federal Minerals

Eagle Rock Section

T. 17 S., R. 3 E.,
Sec. 10, lot 3 and NW¼NW¼;
Sec. 11, lot 3.

The areas described aggregate 99.70 acres in Lane County.

2. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement and sale under the general land laws. Upon acquisition, the minerals will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

Revested Oregon and California Railroad Grant Lands, Non-Federal Minerals

Eagle Rock Section

T. 17 S., R. 3 E.,
Sec. 3, lot 4;
Sec. 9, lot 5.

The areas described aggregate 53.35 acres in Lane County.

3. The following described non-Federal lands are within the exterior boundary of the Leaburg Lake and Eagle Rock Sections of the McKenzie River. Upon acquisition, the lands will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

Leaburg Lake Section

T. 16 S., R. 2 E.,
Sec. 31, lot 2.

Eagle Rock Section

T. 17 S., R. 3 E.,
Sec. 4, lot 8;
Sec. 9, lot 6;
Sec. 10, SW¼NW¼;
Sec. 11, lot 2 and SE¼NW¼.

The areas described aggregate 159.41 acres in Lane County.

For the entire withdrawal, the areas described aggregate 451.66 acres in Lane County.

4. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

5. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: August 25, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–21795 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–33–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 94–94; FCC 94–216]

900 MHz Emission Mask

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action responds to a request by Geotek Communications, Inc. (Geotek) for clarification of the FCC's rules concerning the 900 MHz emission mask. Geotek brought to our attention that the 900 MHz emission mask included in our Rules has the effect of unintentionally restricting the use of low power digital equipment in this band. The intended effect of this action is to eliminate the anomaly.

EFFECTIVE DATE: October 6, 1994.

FOR FURTHER INFORMATION CONTACT: Karen Rackley, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's order in PR Docket No. 94–94, FCC 94–216, adopted August 12, 1994, and released August 30, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of the Order

1. Geotek Communications, Inc. (Geotek) brought to our attention that the 900 MHz emission mask included in

Section 90.209(h) of our Rules has the effect of restricting the use of low power digital equipment in this band. Geotek went on to point out that the restrictive effect of this rule conflicts with the Commission's intent, as stated in our Report and Order in GEN Docket 84–1233, 2 FCC Rcd 1825 (1986), 51 FR 37398, October 22, 1986, to permit any type of modulation in this band, including digital modulation.

2. The 900 MHz band was allocated for use by the Private Land Mobile Services in 1986. The regulatory structure established for this new band was designed to provide as much flexibility as possible for licensees to use a variety of technologies to satisfy their mobile communications requirements. The technology that Geotek proposes to use in this band is just the type of new technology that we had intended our flexible rules to be able to accommodate. Unfortunately, as pointed out in Geotek's letters, the emission mask for the 896–901/935–940 MHz bands has the unintended effect of precluding use of Geotek's particular technology. Very simply, the current emission mask penalizes Geotek's system because of its use of relatively low power (4 watt) portable transceivers. The emission mask currently in effect in our rules requires various levels of attenuation relative to the actual unmodulated carrier power of the transmitter, regardless of how small that transmitter power might be. For very low power transmitters, the effect of this requirement can be very severe on the design of the equipment, with no apparent corresponding benefit with respect to interference reduction. This anomaly in our rules was clearly unintended. We are, therefore, amending Section 90.209(h) of our Rules to eliminate this anomaly in the emissions mask that unintentionally restricts the use of low power digital equipment. For example, for a 4 Watt transmitter on a frequency removed 15 kHz from the channel's assigned (center) frequency, the current mask requires a relative attenuation of 71 decibels while the new mask requires only 56.

3. This rule change is being made to conform our rules to the intent stated in the text of the Report and Order in Docket 84–1233 at paragraph 68:

We desire to allow as much flexibility as possible for end users to choose the equipment that best meets their needs at a cost they can afford. We want to establish appropriate incentives for the development of new technologies. However, we do not want to adopt a plan that essentially requires end users to employ one particular modulation method * * *. Furthermore, we want the channeling plan for this spectrum to accommodate technologies such as digital that have been developed, but require further advances to make them marketable to private land mobile users.

This rule change is noncontroversial because it does not infringe on any current or potential licensee's substantive rights. Therefore, for the above stated reasons, and because this rule change is clearly in the public interest, we find good cause to conclude that notice and comment are impracticable, unnecessary, and contrary to the public interest. *See* 5 U.S.C. 553(b)(B).

4. Accordingly, *It Is Ordered* that, effective 30 days after publication in the **Federal Register**, Section 90.209(h) of the Commission's Rules, 47 CFR 90.209(h) is amended as indicated below.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.209 is amended by revising paragraph (h)(3), and by removing paragraph (h)(4) to read as follows:

§ 90.209 Bandwidth limitations.

(h) * * *

(3) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (f_d in kHz) of more than 9.5 kHz: At least 157 Log_{10} (f_d/5.3) decibels or 50 plus 10 Log_{10} (P) decibels or 70 decibels, whichever is the lesser attenuation.

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[FR Doc. 94–21845 Filed 9–2–94; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB94

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Kootenai River Population of the White Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for the Kootenai River population of the white sturgeon (*Acipenser transmontanus*). The Kootenai River population of the white sturgeon is restricted to approximately 270 river kilometers (km) (168 miles (mi)) of the Kootenai River, in Idaho, Montana, and British Columbia, Canada, primarily upstream from Cora Linn Dam at the outflow from Kootenay Lake, British Columbia. With the exception of 1974, sturgeon recruitment has been declining since the mid-1960's, and there has been an almost complete lack of recruitment of juveniles into the population since 1974, soon after Libby Dam in Montana began operation. The population also faces threats from reduced biological productivity, and possibly poor water quality and the effects of contaminants. This rule implements the protection and conservation provisions afforded by the Act for the Kootenai River population of the white sturgeon.

DATES: October 6, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ecological Services Field Office, 4696 Overland Road, Room 576, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Dr. Charles H. Lobdell, Field Supervisor, at the above address or telephone (208) 334–1931.

SUPPLEMENTARY INFORMATION:

Background

White sturgeon (*Acipenser transmontanus*) are in the Family Acipenseridae, which consists of 4 genera and 24 species of sturgeon. Eight species of sturgeon occur in North America, with white sturgeon one of five species in the genus *Acipenser*. White sturgeon historically occurred on the Pacific Coast from the Aleutian

Islands to central California. The species reproduces in at least three large river systems: the Sacramento-San Joaquin River in California, Columbia River basin in the Pacific Northwest, and the Fraser River system in British Columbia, Canada. The closely related green sturgeon (*Acipenser medirostris*) also occurs in the Pacific Coast region but is restricted in distribution to river estuaries.

White sturgeon were first described by Richardson in 1863 from a single specimen collected in the Columbia River near Fort Vancouver, Washington (Scott and Crossman 1973). All sturgeon are distinguished from other fish in that they have a cartilaginous skeleton with a persistent notochord, and a protractile, tube-like mouth and sensory barbels ventrally on the snout. The white sturgeon is distinguished from other *Acipenser* by the specific arrangement and number of scutes (bony plates) along its body (Scott and Crossman 1973). The largest authentic record of a white sturgeon is a 630 kilogram (kg) (1,387 pounds (lbs)) specimen taken from the Fraser River in British Columbia in 1897 (Scott and Crossman 1973). Individuals in landlocked populations tend to be smaller. For example, white sturgeon over 90 kg (200 lbs) have not been reported from the Kootenai River system (Apperson 1992, Graham 1981, Partridge 1983). White sturgeon are generally long-lived, with females living from 34 to 70 years (Pacific States Marine Fisheries Commission (PSMFC) 1992). The oldest of 342 sturgeon captured in the Kootenai River during 1977 to 1982 was estimated to be 44 years old (Partridge 1983).

For white sturgeon in general, the size or age of first maturity in the wild is quite variable (PSMFC 1992). Females normally require a longer period to mature than males, with females for most sturgeon species spawning between 15 to 25 years of age (Doroshov 1993). Only a portion of adult white sturgeon are reproductive or spawn each year, with the spawning frequency for females estimated at 2 to 11 years. Spawning occurs when the physical environment permits vitellogenesis (egg development) and cues ovulation. White sturgeon are broadcast spawners, releasing their eggs and sperm in fast water. In the lower Columbia River below McNary Dam, landlocked populations of white sturgeon normally spawn during the period of peak flows from April through July (Parsley et al. 1989). Spawning at peak flows with high water velocities disperses and prevents clumping of the adhesive eggs. Following fertilization, eggs adhere to the river substrate and hatch after a relatively brief incubation period of 8 to 15 days, depending on water temperature (Brannon et al. 1985). Recently hatched yolk-sac larvae swim or drift in the current for a period of several hours and settle into interstitial spaces in the substrate. Larval white sturgeon require 20 to 30 days to metamorphose into juveniles with a full complement of fin rays and scutes.

The Kootenai River population of white sturgeon is one of 18 landlocked populations of white sturgeon known to occur in western North America. The Kootenai River originates in Kootenay National Park in British Columbia, Canada. The river flows south into Montana, turns northwest into Idaho, and north through the Kootenai Valley back into British Columbia, where it flows through Kootenay Lake and eventually joins the Columbia River at Castlegar, British Columbia.

Historically, little was known regarding the status and life history of the white sturgeon population in the Kootenai River basin prior to studies initiated during the late 1970's by the British Columbia Ministry of Environment and Parks (Andrusak 1980), Idaho Department of Fish and Game (IDFG) (Partridge 1983), and Montana Department of Fish, Wildlife and Parks (MDFWP) (Graham 1981).

The Kootenai River population of white sturgeon is restricted to approximately 270 river km (168 river mi) in the Kootenai River basin. This reach extends from Kootenai Falls, Montana, located 50 river km (31 river mi) below Libby Dam, downstream through Kootenay Lake to Cora Linn Dam at the outflow from Kootenay Lake, British Columbia, Canada. Historically, Kootenai Falls represented an impassible natural barrier to the upstream migration of the white sturgeon. A natural barrier at Bonnington Falls downstream of Kootenay Lake has isolated the Kootenai River white sturgeon from other white sturgeon populations in the Columbia River basin since the last glacial age (approximately 10,000 years) (Apperson and Anders 1991).

Genetic analysis indicates that the Kootenai River sturgeon is a unique stock and constitutes a distinct interbreeding population (Setter and Brannon 1990). The average heterozygosity (or measure of the quantity of genetic variation) determined for the Kootenai River population at 0.54 compared to an average heterozygosity of 0.74 for white sturgeon in the Columbia River (Setter and Brannon 1990). Based on these comparisons, Setter and Brannon (1990) concluded "* * * we find adequate evidence to distinguish these fish as a separate population based on differences in allele frequencies, the genetic distance calculation and the overall quantity of variation displayed."

In general, individual white sturgeon in the Kootenai River are broadly distributed, migrating freely between the Kootenai River and the deep, oligotrophic Kootenay Lake (Andrusak 1980). However, the species is not commonly found upstream of Bonners Ferry, Idaho to Montana (Apperson and Anders 1991). In 1980, Graham (1981) estimated that only one to five adult white sturgeon resided in Montana, found in the river reach immediately downstream of Kootenai Falls. Although white sturgeon use the main channel of the Kootenai River upstream to Kootenai Falls, few individuals have been reported from tributaries to the Kootenai River in Idaho and Montana.

Based on tagging studies, Kootenai River white sturgeon are relatively sedentary during the summer and inhabit the deepest holes of the Kootenai River and Kootenay Lake (Apperson and Anders 1990). Kootenai River locations used by white sturgeon were generally sites over 20 feet (ft) (6 meters (m)) deep with column velocities less than 0.77 ft per second (fps) (less than 0.24 m per second (mps)) and water temperature of 57 to 68° F (14 to 20° C) (PSMFC 1992), while depths utilized in Kootenay Lake ranged from 30 to over 300 ft (10 to 100.5 m) (Apperson and Anders 1991). Compared with other waters containing white sturgeon, the Kootenai River is a relatively cool river with summer high temperatures of 68 to 72° F (20 to 22° C).

White sturgeon in the Kootenai River are considered opportunistic feeders. Partridge (1983) found white sturgeon more than 28 inches (in) (80 centimeters (cm)) in length feeding on a variety of prey items, including chironomids, clams, snails, aquatic insects, and fish. Andrusak (British Columbia Environment, Parks and Lands, pers. comm., 1993) noted that kokanee salmon (*Oncorhynchus nerka*) in Kootenay Lake, prior to a dramatic population crash beginning in the mid 1970's, were once considered an important prey item for adult white sturgeon.

Historically (pre-Libby Dam construction and operation), habitat for white sturgeon spawning was considered available in an approximate 96 river km (60 river mi) stretch of the Kootenai River from Shorty's Island in Idaho (river km 223, river mi 145) upstream to Kootenai Falls in Montana

(river km 327, river mi 203) (Apperson, Idaho Department of Fish and Game, pers. comm., 1993). Monitoring of mature white sturgeon tagged with ultrasonic and radio transmitters in 1990 through 1993 has documented long distance movements upriver during the spring to suspected staging areas located from Shorty's Island (river km 230, river mi 143) to Bonners Ferry (river km 245, river mi 153), and the suspected spawning reach upstream of Bonners Ferry. For example, Apperson (1992) reported that six reproductively mature white sturgeon (three males and three females) tagged with ultrasonic transmitters were located weekly from April through July 1991 to monitor spawning related movements. By May, all six fish had moved upriver 16 to 114 river km (10 to 71 river mi) between Shorty's Island and immediately downstream of Bonners Ferry. They remained congregated in this area through July. These fish exhibited movements similar to other sturgeon tagged and monitored in 1990. During May through July, white sturgeon fitted with transmitters occupied locations with water velocities that ranged from 0.3 to 0.6 mps (1 to 2 fps) in 1990, and 0.4 to 0.8 mps (1.3 to 2.5 fps) in 1991.

Based on a comparison of population estimates made in 1982 and 1990, Kootenai River white sturgeon declined from an estimated 1,194 fish (range of 907 to 1,503) (Partridge 1983) to approximately 880 fish (range of 638 to 1,211) (Apperson and Anders 1991). The Bonneville Power Administration (BPA) (1993), commenting on the proposed rule, believes that the population has further declined in 1993 to an estimated 785 individuals (range 569 to 1,080) based on recent estimates of annual mortality and no natural recruitment since 1990.

The population is reproductively mature, with few of the remaining white sturgeon younger than 20 years old (Apperson 1992). The Idaho Department of Fish and Game (IDFG) estimates that 7 percent of the female, and 30 percent of the male white sturgeon in the Kootenai River are reproductive each year (Apperson 1992). Based on a 1:1 sex ratio, this translated into 22 to 42 females and 96 to 182 males available to spawn in 1990. The actual number of available spawners is dependent upon size at maturity and spawning frequency. It is not certain at what age reproductive senescence occurs in white sturgeon, although most sturgeon species reproduce in the age brackets of 10 to 20 years for males and 15 to 25 years for females (Doroshov 1993).

There has been an almost complete lack of recruitment of juveniles into the population since 1974, soon after Libby Dam began operation (Partridge 1983, Apperson and Anders 1991). The youngest white sturgeon found in recent studies include a single specimen from the 1977 (Apperson and Anders 1991) year class and three specimens from a year class between 1976 and 1978 (BPA 1993). Additionally, no white sturgeon less than 51 cm (20 in) total length were collected in surveys conducted between 1977 and 1982 on the Kootenai River (PSMFC 1992).

Partridge (1983) noted that white sturgeon recruitment was intermittent and possibly decreasing from the mid-1960's to 1974. This is demonstrated by lack of white sturgeon from the 1965 to 1969, 1971 to 1973, and 1975 year-classes. Partridge speculated that the lack of recruitment was due in part to the elimination of rearing areas for juveniles through diking of slough and marsh side-channel habitats, and the increase in chemical pollutants (e.g., copper, zinc) in the river that may have affected spawning success. Based on the most recent annual mortality rate estimate of 0.0374 coupled with continuing zero recruitment in the future, BPA believes the population will further decline to an estimated 648 individuals by 1998, with only 17 to 33 females available to spawn annually (BPA 1993).

Fish community associates include the burbot (*Lota lota*) and several native salmonids: westslope cutthroat trout (*Oncorhynchus clarki lewisi*), rainbow trout (*Salmo gairdneri*), bull trout (*Salvelinus confluentus*), kokanee salmon (*Oncorhynchus nerka*), and mountain whitefish (*Prosopium williamsoni*). Both burbot and spawning kokanee salmon populations have declined dramatically in the Kootenai River since the 1950's. The decline in burbot is not fully understood, but is thought partially due to the changing Kootenai River hydrograph. Several factors are believed to have contributed to the kokanee collapse, primarily a decline in the overall biological productivity due to system dam construction and operations and the introduction of mysid shrimp in Kootenay Lake, an efficient competitor with kokanee for prey (Ashley and Thompson 1993).

Previous Federal Action

On November 21, 1991, the Service included the Kootenai River population of white sturgeon as a category 1 candidate species in the Animal Notice of Review (56 FR 58804), based primarily on the results of field studies conducted by IDFG. Category 1 candidates are taxa for which the Service has on file enough substantial information on biological vulnerability and threats to propose them for endangered or threatened status. On June 11, 1992, the Service received a petition from the Idaho Conservation League, Northern Idaho Audubon, and Boundary Backpackers to list the Kootenai River population of white sturgeon as threatened or endangered under the Act. The petition cited the continuing lack of natural flows affecting juvenile recruitment as the primary threat to the continued existence of the wild sturgeon population. Pursuant to section 4(b)(3)(A) of the Act, the Service published in the **Federal Register** on April 14, 1993 (58 FR 19401) a determination that the petition presented substantial information indicating that listing the sturgeon population as threatened or endangered may be warranted.

Based upon the petition, status surveys, and other information on file, the Service proposed the Kootenai River population of white sturgeon for listing as endangered on July 7, 1993 (58 FR 36379). The proposed rule included information submitted by various agencies, including IDFG (Apperson 1992; Apperson and Anders 1990; 1991; Partridge 1983), MDFWP (Graham 1981; Graham and White 1985), the Service (Duke et al. 1990; Miller et al. 1991; Parsley et al. 1989) and the British Columbia Ministry of Environment and Parks, Fish and Wildlife (Andrusak 1980). The proposal included a public comment period of 120 days ending November 4, 1993 and gave notice of one public hearing in Sandpoint, Idaho. To accommodate additional public hearings in Bonners Ferry, Idaho, and Libby, Montana, the Service published a notice of public hearing on August 3, 1993 (58 FR 41237). The first comment period on the proposal, which originally closed on November 4, 1993, was extended to November 19, 1993 (58 FR 54549) to provide the public with more time in which to submit comments.

The Service now determines the Kootenai River population of white sturgeon to be an endangered species with publication of this rule.

Summary of Comments and Recommendations

In the July 7, 1993 proposed rule (58 FR 36379), all interested parties were requested to submit comments or information that might contribute to the development of a final determination. The Service also gave notice of a public hearing to be held in Sandpoint, Idaho during the public comment period ending November 4, 1993. On August 3,

1993, the Service published a Federal Register notice announcing two additional public hearings to be held prior to the November 4, 1993 close of the comment period (58 FR 41237). Announcements of the proposed rule and notice of public hearings were sent to at least 156 individuals including Federal, State, County, and City elected officials; State and Federal agencies; interested private citizens; and local area newspapers and radio stations. Announcements of the July 7, 1993 proposed rule were also published in six newspapers: the Bonners Ferry Herald, Bonners Ferry, Idaho; Coeur d'Alene Press, Coeur d'Alene, Idaho; the Idaho Statesman, Boise, Idaho; The Spokesman Review, Spokane, Washington; the Tobacco Valley News, Eureka, Montana; and the Western News, Libby, Montana. To accommodate requests for additional public hearings in Bonners Ferry, Idaho, and Libby, Montana, the Service published a notice of public hearings in the Federal Register on August 3, 1993 (58 FR 41237). Three public hearings were held on the proposal: from 5 to 8 p.m. on August 24, 1993, in Bonners Ferry, Idaho; from 5 to 8 p.m. on August 25, 1992, in Libby, Montana; and from 1 to 4 p.m. and 6 to 8 p.m. on August 26, 1993, in Sandpoint, Idaho. To provide the public with more time in which to provide comments, the Service published a third notice, on October 22, 1993, extending the comment period 15 days to November 19, 1993 (58 FR 54549).

Thirty-four oral and forty written comments were received on the proposed rule. These included comments from three Federal agencies, four Montana and Idaho State agencies, four Canadian agencies, the Kootenai Tribe of Idaho, Idaho's two U.S. Senators, Montana's U.S. Representative, Idaho's Governor, fifteen County or City officials, and thirty-three individuals or groups. The Service considered all comments, including oral testimony at the three public hearings. A majority of comments opposed the proposed rule. Opposition was based on several factors, including the possible economic impacts of listing the white sturgeon population, and that all causes of decline are not currently known or fully understood. Seven written comments supported the proposed rule and five letters requested additional public hearings. Idaho Senators Larry Craig and Dirk Kempthorne requested that the Service "* * * not proceed hastily towards a decision to list the Kootenai sturgeon * * *" and suggested that the Service consider "* * * the recovery strategy prepared by the Kootenai Tribe of Idaho." Many commenters provided information pertaining to further research needs, critical habitat, and recovery planning. These comments, in addition to recovery strategies submitted by the Kootenai Tribe of Idaho, Idaho Department of Fish and Game, and Montana Department of Fish, Wildlife & Parks, will be useful in the development of a recovery plan for the Kootenai River population of white sturgeon. Several commenters provided new and substantive biological information applicable to the listing decision. The British Columbia Ministry of Environment, Lands and Parks of Canada submitted information on a fertilization program for Kootenay Lake. The Kootenai Tribe provided additional information on white sturgeon captured in the Kootenai River in 1993, and the BPA provided annual reports describing results from a 1993 white sturgeon monitoring program ongoing in the Kootenai River. Comments of a similar nature or point of concern are grouped for consideration and response. A summary of these issues and the Service's response to each, are discussed below.

Issue 1: Several commenters requested that the Service delay or preclude listing the Kootenai River white sturgeon because too little is known regarding all causes of decline. They also believed there were "obvious uncertainties" regarding the Kootenai sturgeons' current status throughout its range. Some commenters questioned whether population estimates for Kootenai River white sturgeon cited in the proposed rule are a reliable indicator of its current status since the fish moves between the river and Kootenay Lake and additional fish may reside in the lake. Other respondents claim that the Service ignored all potential causes of decline in the proposed rule. Specifically, assertions in the proposed rule that ascribe the primary cause of decline to Kootenai River flow modification such as "* * * the free-flowing river habitat has been modified and impacted from development of the Kootenai River basin * * *". The Lincoln County Board of Commissioners (Montana) believe "* * * other potential causes of decline must be analyzed before a decision is made on the listing of the white sturgeon, while another respondent stated that "* * * information strongly suggest other mechanisms are limiting sturgeon recruitment into the population." Because it appears that the Kootenai River white sturgeon population has been declining since the mid-1960's, prior to the construction and operation of Libby Dam, additional causes of decline contributing to a lack of recruitment and survival should be investigated. These respondents also suggested that the Service initiate a comprehensive research study to develop additional data on the biological and environmental factors limiting sturgeon recruitment prior to any listing decision.

Service response: The listing process includes an opportunity for the public to comment and provide new information that is evaluated and considered by the Service before making a final decision. Aside from previously cited studies and reports in the proposed rule (58 FR 36379), the Service has reviewed and considered new information regarding distribution and general life history for the Kootenai River population of white sturgeon from BPA (1993), the Kootenai Tribe of Idaho (1993), and Marcuson (1993); information about Kootenay Lake fertilization studies (Ashley and Thompson 1993); and information contained in an independent status review prepared for the Pacific Northwest Utilities Conference Committee (Giorgi 1993).

New information submitted during the comment period reaffirmed that the white sturgeon population continues to decline, and is not more widespread or found in other areas of the Kootenai River basin. According to BPA (1993) and Giorgi (1993), estimates showing a decline in the white sturgeon population from an estimated 1,194 fish (range 907 to 1503) in 1982 (Partridge 1983) to 880 (range 638 to 1,211) in 1990 (Apperson and Anders 1991) are not directly comparable because the 1990 survey occurred in a river sampling reach almost 50 river km (31 river mi) longer. However, both BPA and Georgi concur the population is declining. The Service believes recent population trends and population estimates accurately reflect the current status of the fish. Trends in population demographics reveal an aging population with no known recruitment of age 1 sturgeon since 1978. Additionally, although mark-recapture studies reveal that white sturgeon move freely between the Kootenai River and Kootenay Lake, there is no evidence that white sturgeon reside or spawn in other tributaries entering Kootenay Lake, British Columbia.

The Service acknowledged in the proposed rule that the white sturgeon population in the Kootenai River has been declining since the mid-1960's,

with limited intermittent recruitment until 1974; and indicated that there are causal factors of decline other than "* * * significant modifications of the natural hydrograph * * *" (58 FR 36379). For example, reduced biological productivity, habitat loss due to diking, poor water quality and contaminants, inadequate regulatory mechanisms, and possibly disease were all identified in the proposed rule as contributing to the decline and affecting recruitment of Kootenai River white sturgeon. Giorgi (1993) also reported that the relationship between recruitment and "* * * spring/summer flow volumes in the Kootenai River is not apparent". Based on year-class comparisons between 1974 (the last year of successful reproduction and measurable recruitment) and recent years with high flow conditions that resulted in no recruitment, Giorgi concluded that if "* * * the linkage between flow levels, spawning, and recruitment were as strong as some have theorized, recruitment from these years should have occurred." The Service believes these types of comparisons are valid only if additional flow-related factors considered important in affecting sturgeon spawning behavior and early age recruitment are considered—the seasonal timing and duration of peak flows to encourage spawning behavior and the effects of load-factoring. For example, recent tracking studies have revealed reproductively mature white sturgeon equipped with radio and sonic transmitters moving upriver to the pre-spawning staging areas downstream of Bonners Ferry around mid-May (Apperson 1992; Marcuson 1993). These fish will commonly stay in the suspected spawning reach immediately upstream through July dependent upon flow conditions and whether they have spawned. In 1974 when the last strong year-class of sturgeon occurred, flows were increasing and remained highest during the May and June period, providing habitat conditions suitable to spawning and survival of eggs/larvae to age 1 recruitment.

Peak flows in the Kootenai River have varied seasonally in each year since 1975 when Libby Dam operations began. Load-factoring has affected the discharge stability at Libby Dam and sustained flows through the spawning reach near Bonners Ferry throughout the spring/summer sturgeon reproduction season. For example, in 1981 flows peaked at Bonners Ferry near the same volume as in 1974, but not until July, while higher than normal natural flows (since 1974) peaked around mid-June in 1990, early May in 1991, and May 15 in 1993. Recent monitoring efforts documented white sturgeon spawning in 1991 and 1993, and some level of spawning has likely occurred in several or most years since 1974. The Service believes the combination of diminished mean discharge since 1974 at Bonners Ferry and the effects of daily and weekly load-factoring on flow fluctuations have adversely affected sturgeon spawning behavior and egg/larval survival which has inhibited recruitment to age 1 since 1974.

In summary, no new significant distributional or demographic information affecting the status of the white sturgeon were reported by any respondent. Moreover, monitoring and survey programs conducted from 1990 through 1993 substantiate conclusions in the proposed rule that the Kootenai River white sturgeon population continues to decline and recruitment has been virtually non-existent since 1974. There is no recent evidence of successful spawning and survival past the egg stage. Existing regulations and experimental flow programs have not been effective in arresting this decline. The Service maintains that this final rule is based on the best information available. The Service also believes that sufficient information is provided on the Kootenai River population of white sturgeon to warrant making a determination on their status under the Act.

Issue 2: Many commenters expressed concerns with the potential economic impacts to hydropower generation, recreation, agriculture and timber harvesting in the Kootenai River basin from listing the Kootenai River population of white sturgeon under the Act. For example, British Columbia (BC) Hydro believes that "* * * some Canadian citizens and all B.C. Hydro ratepayers would be adversely affected by the proposed rule to list the sturgeon * * * as endangered." The Kootenai Valley Reclamation Association was concerned that higher Kootenai River flows during the sturgeon spawning season would increase pumping costs for area farmers growing crops behind levies downstream of Libby Dam. Other respondents requested that the Service consider the potential impacts to recreational boating and resident fisheries at Lake Koocanusa from future recovery measures dependent upon storage water regulated at Libby Dam. They also cited the possible negative consequences of implementing the interim flow strategy to benefit sturgeon spawning and recruitment as cited in the proposed rule, including impacts to reservoir refill and the effects of early summer drawdowns in Lake Koocanusa.

Service response: Under section 4(b)(1)(A) of the Act, the listing process is based solely on the best scientific and commercial information available and economic considerations are not applicable. The legislative history of the provisions clearly states the intent of Congress to "ensure" that listing decisions are "based solely upon biological criteria and to prevent non-biological considerations from affecting such decisions." (H.R. Rep. No. 97–835, 97th Congress 2nd Session 19 (1982)). Because of the clear intent of Congress to preclude the Service from considering economic and other non-biological impacts in the listing process, the Service has not addressed such impacts in this final rule. However, economic factors are considered when designating critical habitat and during the development of a recovery plan.

Issue 3: Several respondents requested that the Service designate critical habitat during the final rulemaking process so that the potential economic impacts could be evaluated. Boundary County of Idaho officials believed that "* * * To list the sturgeon without addressing critical habitat is a serious disservice to the people of Boundary County and a direct circumvention of the mandates of law * * *". Another commenter representing the petitioner Idaho Conservation League stated that without critical habitat designation "* * * it seems that the management plans that you (affected agencies) come up with will be out of touch with the direct habitat needs that exist on the ground * * *"

Service response: Under section 4(a)(3)(A) of the Act, the Secretary shall designate critical habitat to the maximum extent prudent and determinable at the time a species is determined to be threatened or endangered. Critical habitat is not a management plan, but a legally described list of those areas considered essential for the conservation of the species and that may require special management consideration or protection. It should be noted that a designation of critical habitat does not create a wildlife refuge or wilderness area, nor does it close the area to human activity. It applies only to Federal agencies that propose to fund, authorize or carry out activities that may affect areas within designated critical habitat. Although critical habitat may be designated on private or State lands, activities on these lands are not affected by the designation unless they involve Federal authorization or funding. Additionally, critical habitat is not designated within foreign countries or

in other areas outside of United States jurisdiction (50 CFR 424.12(h)).

At the time of the proposed listing determination, critical habitat was not determinable because information necessary to perform the required analysis was not available. Because information sufficient to complete required analyses for a designation is still lacking, critical habitat for the Kootenai River population of white sturgeon is not presently determinable. The Service concludes that the threats to the Kootenai River white sturgeon population and benefits associated with listing justify taking action now, rather than waiting until a full analysis of critical habitat can be completed. See the "Critical Habitat" section below for a complete discussion on the issue of critical habitat designation relative to the listing of the Kootenai River population of white sturgeon. Furthermore, economic analyses conducted on determinations of critical habitat examine the costs attributed to critical habitat over and above costs associated with listing. Consequently, designating critical habitat would not result in an analysis of the costs of listing the sturgeon.

Issue 4: Several commenters maintain that habitat problems should be addressed through existing regulatory processes and not through the Federal listing process. For example, Direct Services Industries, Inc. stated that the "* * * USFWS has incorrectly determined that existing regulatory mechanisms are inadequate to assure conservation and recovery of the sturgeon and promote recovery of its purportedly declining population." They and other respondents also believe that operations at Libby Dam have not been modified to date because the biological needs and requirements of white sturgeon are not currently known. The IDFG also believes that recovery of the sturgeon population is still achievable without listing under the Act if the U.S. Army Corps of Engineers (Corps) would modify Kootenai River flow management to benefit sturgeon recruitment and survival.

Service response: The Service believes that, although the lack of reproduction and successful recruitment is the most immediate threat to the sturgeon population, other factors are also contributing to their decline. In recent years, efforts by various State agencies and the Kootenai Tribe, authorized by the Northwest Power Planning Council (NWPPC) (1987) and funded by BPA, have been undertaken to identify all environmental factors limiting the white sturgeon population in the Kootenai River. Additionally, the Corps and BPA have committed to providing experimental flows releases from Libby Dam for sturgeon. For example, 400,000 acre-feet of water was released from Libby Dam during May and June 1993 as a test to stimulate sturgeon spawning. However, the experiment was intended only to evaluate possible spawning flow thresholds, not to provide flow or habitat conditions necessary for survival beyond the egg stage throughout the spawning season.

The Corps and BPA, in conjunction with the Bureau of Reclamation (Reclamation), have also developed a flow proposal starting in 1994 based on results of the 1993 experimental flow and water availability in an effort to provide for spawning and recruitment of Kootenai River white sturgeon. The flow proposal includes provisions to "shape" flows from Libby Dam to achieve the "desired" sturgeon flows in 3 out of every 10 years, dependent upon flow forecasts (water availability), and only to the extent that flows will not reduce refill or violate flood control requirements (Corps 1993).

Despite this flow proposal and cooperative monitoring efforts to better comprehend the factors affecting the Kootenai River white sturgeon, there is no long-term commitment to modify dam operations and manage stored water at other times of the year to ensure that sturgeon flows are provided starting in 1994 or other early years of the 10 year cycle. The Corps and BPA continue to prioritize Libby Dam operations to meet other demands, primarily hydropower and recreation, and not for the benefit of Kootenai River white sturgeon or other resident fishes.

In summary, long-term provisions to govern future Libby Dam water management that fully consider the habitat needs of white sturgeon reproduction in the Kootenai River are still required and have not been implemented to date. See Factor D in "Summary of Factors Affecting the Species" for a complete discussion on the inadequacy of existing regulatory mechanisms for the Kootenai River population of white sturgeon.

Issue 5: Several respondents expressed support for the Kootenai River white sturgeon recovery strategy prepared by the Kootenai Tribe of Idaho. The Kootenai Tribal Plan (Plan), submitted during the public comment period, describes a detailed conservation program based on three recovery strategies: (1) the re-establishment of natural spawning, (2) a supplementation program, and (3) additional research. The Pacific Northwest Utilities Conference Committee; Direct Services Industries, Inc.; City of Bonners Ferry, Idaho; Boundary County Board of Commissioners, Idaho; and Idaho's U.S. Senators Larry Craig and Dirk Kempthorne, among others, endorsed the Plan and requested that the Service implement the Plan in lieu of federally listing the sturgeon. Additionally, the IDFG and MDFWP each submitted recovery strategies that describe their respective recommendations for recovery of the Kootenai River white sturgeon. Both IDFG and MDFWP's recovery strategies are similar in that each relies on re-establishment of natural spawning in years when precipitation provides average or above average water availability, and population augmentation and/or supplementation in below average or drought water years.

Service response: According to section 2(b) of the Act, one of the "purposes of this Act [is] to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved." Once a species becomes listed as threatened or endangered, section 4(f) of the Act directs the Service to develop and implement recovery plans for that species. Recovery means improvement in the status of a listed species to the point at which listing is no longer appropriate under the criteria provided in section 4 of the Act (50 CFR 402.02). Two goals of the recovery process are: (1) the maintenance of secure, self-sustaining wild populations of the species; and (2) restoration of the species to a point where it is a viable, self-sustaining component of its ecosystem.

Recovery programs submitted by the Kootenai Tribe of Idaho, IDFG, and MDFWP are basically similar in that their overall goal is to achieve a naturally reproducing, self-sustaining population of Kootenai River white sturgeon. However, each of the three programs differs in its reliance on supplementation as an interim augmentation measure, and for meeting long-term recovery goals. While the Service recognizes that captive propagation and supplementation can be valid conservation tools and assist in recovery efforts, they, by themselves, do not contribute to the maintenance of a secure, self-sustaining Kootenai River white sturgeon population in the wild. For example, if the Service were to implement provisions of any or each of the three agency recovery strategies in lieu of listing, such implementation would not be binding on the Corps or BPA to modify the current Libby Dam operations or flow regime in the Kootenai River for the long-term benefit

of white sturgeon recruitment and survival in the wild. See Factor D in "Summary of Factors Affecting the Species" for a complete discussion on the inadequacy of existing regulatory mechanisms for the Kootenai River population of white sturgeon.

In summary, the Service believes that information contained in each of the three agency recovery strategies will be useful in future recovery planning efforts and the development of a recovery plan. Such a recovery plan would include measures to address all threats to the sturgeon and incorporate provisions that implement realistic, natural flow based solutions within water management constraints for successful white sturgeon recruitment in the Kootenai River.

Issue 6: Several comments were received from Canadian agencies and individuals requesting that the Service consider the international implications of any final listing decision. For example, the Canadian Department of Fisheries and Oceans, while concurring that action must be taken to protect the sturgeon, was concerned that "* * * in protecting the white sturgeon, measures could be implemented which have the potential to impact other non-targeted stocks of Canadian fish." British Columbia Environment also expressed similar concerns regarding impacts to fish resources and recreational angling in area reservoirs and rivers "* * * given the integrated nature of the power grid in B.C., Washington, Idaho and Montana." B.C. Hydro believes listing the sturgeon population will impose adverse environmental, social (recreational), and energy costs on many citizens in Canada.

Service response: As stated previously (Issue #2), listing decisions are to be based solely on the best scientific and commercial information available, and socioeconomic considerations and non-biological impacts may not be considered in listing decisions. The Service shares Canada's concerns regarding possible environmental and economic impacts from any listing decision. The Service will work with Canadian government agencies to promote international cooperation for recovery of the Kootenai River white sturgeon and address potential environmental impacts to other aquatic resources in Canada and the United States.

Issue 7: Many comments were received expressing concerns that any recovery measures implemented for white sturgeon would adversely affect other species in the Kootenai River basin. These resident species include the Idaho State sensitive burbot or ling, westslope cutthroat trout, and the bull trout. For example, concerns were expressed that future changes in Libby Dam operations to benefit white sturgeon could reduce bull trout access to spawning streams and impact reservoir productivity affecting reservoir bull trout populations. Some respondents believe that future Kootenai River flow management schemes, developed for the benefit of Kootenai River white sturgeon spawning and recruitment, could also reduce the hydroelectric systems flexibility to provide "federally-mandated flows" for listed salmon stocks downstream in the mid-Columbia River, and cause direct and indirect impacts to resident fish species in Lake Koocanusa behind Libby Dam.

Service response: The Service agrees that these are valid concerns. Concerns regarding the possible adverse environmental and non-biological effects from implementing future recovery measures cannot be considered in a decision to list a species. However, these concerns are important in developing recovery measures that take into account environmental effects to other species. The Service will fully consider the environmental effects and consequences of implementing future recovery measures for Kootenai River white sturgeon.

Issue 8: Several commenters requested that the Service prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) for the proposed listing action. For example, Scott Orr of the Montana House of Representatives believes that NEPA is required for the Service to "* * * fully disclose its understanding of what the status of the white sturgeon really is. It would provide the public with the same information the Service has and it would allow the public to completely understand the reasoning behind any decision the Service may make." Additionally, Direct Services Industries, Inc., also maintains that the interim flow strategy developed for white sturgeon spawning and recruitment as described in the proposed rule "* * * would constitute a major federal action significantly affecting the quality of the environment, which would necessitate preparation of an EIS under NEPA."

Service response: As discussed in the NEPA section of this rule, it has been determined that such analyses are not required 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). The Service will consider economic and other environmental factors during the analysis of critical habitat designation and in development of a recovery plan. Federal actions to implement a recovery plan would be subject to NEPA analysis at the time they are proposed.

Issue 9: Two respondents believe that if the Kootenai River population of white sturgeon is provided protection under the Act, it should be listed as threatened instead of endangered. Specifically, without defined threshold criteria to distinguish between a threatened or endangered status, "* * * it will be difficult to develop delisting criteria to rebuild the Kootenai River white sturgeon population."

Service response: The proposal to list the Kootenai River population of white sturgeon as endangered was based on an assessment of the best scientific and commercial information available at the time. In making this final listing determination, the Service has considered the current status of the fish, including population demographics, and continued lack of successful reproduction and recruitment since the mid-1970's. The population had declined to an estimated 880 individuals in 1990, and possibly declined to around 785 individuals in 1993 based upon BPA's (1993) recent estimates. The population may be reaching the age of reproductive senescence, since for most sturgeon species females reproduce between the ages of 15 to 25 years (Doroshov 1993). Although the continuing lack of natural flows affecting sturgeon juvenile recruitment is considered the primary threat to its continued existence, other factors are also contributing to the wild populations' decline. See the "Summary of Factors Affecting the Species" section for a more complete discussion on the factors affecting the white sturgeon's decline. Consequently, the Service has determined that this distinct population of white sturgeon is in danger of extinction throughout its range and therefore fits the Act's definition of an endangered species.

Issue 10: In comments on the proposed rule, BPA stated that two Libby Dam operational decisions cited as examples of other uses taking priority over the needs of Kootenai River white sturgeon need further clarification. Additionally, BPA believes the proposed rule also misinterpreted the level of cooperation between the Service and other State, Federal, Canadian agencies and the Kootenai Indian Tribe in forming the White Sturgeon Technical Committee in June 1992 to

address Kootenai River white sturgeon issues. Specifically, the statement that "* * * Based on discussions and recommendations by the Kootenai River Sturgeon Technical Committee, the Service adopted an interim flow proposal as the basis of any prelisting Conservation Agreement * * *".

Service response: The two operational decisions in question were described in Factor D of the "Summary of Factors Affecting the Species" section of the proposed rule. The first example occurred during early June 1992. BPA required that water be stored behind Libby Dam for recreational purposes (not as part of an energy exchange as stated in the proposed rule) at the request of B.C. Hydro. As a result, flows dropped from nearly 20,000 cubic feet per second (cfs) to 4,000 cfs (566 cubic meters per second (cms) to 113 cms) in the Kootenai River during the critical spawning period. At that time, three mature female sturgeon tagged with ultrasonic transmitters were staging in the suspected spawning reach near Bonners Ferry when suitable temperature and possibly adequate flow conditions were present. Subsequent to the flow reduction no eggs or larvae or other evidence of spawning were reported for the 1992 sturgeon spawning season.

In the second example, BPA in mid-February 1993 started drafting the nearly 1 million acre-feet stored behind Libby Dam to meet firm power needs. The Service had been working with the Corps to develop an Memorandum of Agreement (MOA) that included a flow regime for 1993 using all or part of this stored water for white sturgeon reproduction. Approximately 400,000 acre-feet of this water ended up being released as the 1993 experimental flow test. As previously described, BPA acknowledged that this experimental test flow was probably insufficient to maximize sturgeon spawning opportunity and ensure egg/larvae survival in 1993, likely contributing to another year-class failure. The BPA also noted that the early drafting "* * * was done consistent with the Pacific Northwest Coordination Agreement * * *" Regardless of the causes, these actions demonstrate the continued reluctance to manage Kootenai River water for most non-hydropower purposes.

Regarding the Sturgeon Technical Committee, the Service agrees that committee members were not authorized to approve future management actions, or did not necessarily support the interim flow proposal. As stated in the proposed rule, the Service adopted the interim flow proposal based upon the best empirical data and only as a minimum first step to address flow related problems affecting white sturgeon reproduction in the Kootenai River.

In summary, no substantive comments were received indicating that the Kootenai River white sturgeon is more abundant, widespread or less endangered than described in the proposed rule. Opposing comments were based primarily upon concerns that listing of the Kootenai River white sturgeon would affect water management at Libby Dam (and Koocanusa Reservoir) or impact the economy of the Kootenai River basin, rather than information concerning the species status. Because many of these comments focused on recovery concerns, they will be useful in developing recovery options for the Kootenai River population of white sturgeon. Some opposing comments questioned the adequacy of the Service's data, specifically concerning the current status of the population and whether all of the causes of decline have been considered. The Service has continued to gather information regarding the status of the Kootenai River white sturgeon since publication of the proposed rule in July 1993 and believes that this final rule is based on the best scientific and commercial information available. As discussed in detail in the "Summary of Factors Affecting the Species" section, the Service concludes that the Kootenai River population of white sturgeon continues to decline from the combined effects of lack of recruitment and natural mortality and is in danger of extinction.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) 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 Lists. 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 applicability to the Kootenai River population of white sturgeon (*Acipenser transmontanus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The significant modifications to the natural hydrograph in the Kootenai River caused by flow regulation at Libby Dam is considered the primary reason for the Kootenai River white sturgeon's continuing lack of recruitment and declining numbers (Apperson and Anders 1991). Since 1972 when Libby Dam began regulating flows (though not fully operational until 1975), spring flows in the Kootenai River have been reduced an average 50 percent, and winter flows have increased by 300 percent over normal. As a consequence, natural high spring flows required by white sturgeon for reproduction rarely occur during the May to July spawning season when suitable temperature, water velocity, and photoperiod conditions exist. Spring flows in the Kootenai River below Libby Dam are also normally far below the flows observed in 1974, the last year with appreciable white sturgeon production (Apperson 1992). Flows in 1974 exceeded 35,000 cfs (1,000 cms) during most of the spawning season. The current operation of Libby Dam drastically alters seasonal downstream discharge by storing the natural spring runoff, providing more predictable flows throughout the year, and allowing late summer load factoring (power peaking) flows (Apperson 1992).

Evidence of spawning by Kootenai River white sturgeon has been documented only in 1991 and 1993. In 1990 and 1991, river discharge during the suspected spawning period was atypical for the post-Libby Dam period. Instead of discharge declining through late spring as occurred during 1989 and most prior years following Libby Dam operation, increasing and higher than "normal" flows coincided with increasing water temperatures through June in 1990 and 1991. In both years, mature female sturgeon tagged with ultrasonic transmitters moved from 15 to 110 river km (10 to 68 river mi) upriver and congregated in the 16 river km (10 river mi) reach near Bonners Ferry (Apperson 1992). These migrations coincided with an increase in flows near Bonners Ferry from approximately 24,700 cfs to nearly 42,400 cfs (700 to 1,200 cms) and an increase in water temperature from 8 to 14 °C (46 to 57 °F).

Although no sturgeon eggs were recovered in 1990, 13 eggs were collected in early July 1991 from an artificial substrate placed in the suspected spawning area near river km 243 (river mi 155) at Bonners Ferry, within 0.06 mi (100 m) downriver from the railroad bridge (Apperson 1992). The eggs, estimated to be approximately 3 days of age, were spawned when water temperatures were 14 °C (57 °F) and discharge between June 29 and July 2 ranged from 14,125 to 19,400 cfs (400 to 500 cms). Water velocities where sturgeon eggs were collected were estimated at 2.4 to 3.1 fps (0.8 to 1.0

mps); these velocities were at the lower end of velocity ranges measured in white sturgeon spawning areas during egg collection in the lower Columbia River (1.6 to 9.1 fps or 0.5 to 2.8 mps) (Miller et al. 1991). Although pre-spawning migratory behavior was observed in both 1990 and 1991, the higher than normal Kootenai River flows through the suspected spawning area occurred only for a brief period, with a few viable eggs collected in 1991. Evidence that more than one female spawned successfully, or whether the eggs spawned in 1991 survived past the larval stage, is lacking.

Spawning was also documented during the 1993 experimental test flow (see Factor D below for a more complete discussion of this test flow). Two eggs spawned from two separate females were collected during the test flow period on artificial substrate mats in the same general location where eggs were found in 1991. The first egg was collected on June 10, with an estimated spawning date of June 7. The second egg collected on June 15 was not fertilized. Flows at Bonners Ferry during this period averaged 20,000 cfs (566 cms) with no load-following and water temperatures ranged from 12 to 14 °C (54 to 57 °F). A third egg was collected on July 10 in a D-ring net. However, the egg was dead and the back-calculated time of spawning was not determinable. Although 1993 spawning monitoring efforts were intense, larval sturgeon are normally difficult to collect. Similar to 1991 results, there is currently no evidence that eggs spawned in 1993 survived past the larval stage.

Additional adverse impacts to sturgeon because of reduced spring flow conditions may result from load-factoring or load-following at Libby Dam. Load-factoring, the deliberate practice of artificially raising and lowering river levels over a daily or weekly pattern for peak power generation or recreation, can create rapid changes in tailwater flows and affect depth, temperature, dissolved gases, and other physical-chemical conditions in the tailwater. Load-factoring at Libby Dam is a frequent and sporadic operating practice contributing to routine fluctuations in river elevations of 1 to 3 ft (0.3 to 0.9 m) per day (Kim Apperson, IDFG, pers. comm., 1993). These fluctuations may adversely affect sturgeon spawning behavior and reduce any egg/larvae survival by dewatering early rearing habitats. Because sturgeon spawning coincides with peak flows during spring and early summer, flows within natural fluctuations are considered important in maintaining consistent sturgeon spawning behavior during the spawning period (Lance Beckman, U.S. Fish and Wildlife Service, pers. comm., 1993).

Kootenai River white sturgeon eggs and larvae are subject to downstream drift and are vulnerable to dewatering from flow fluctuations for 4 to 6 weeks post-spawning. This is especially critical for eggs and larvae deposited in shallow, littoral areas within the 16 river km (10 river mi) stretch downstream of Bonners Ferry. For example, initial study results from Instream Flow Incremental Methodology (IFIM) monitoring in the Kootenai River near Bonners Ferry indicate that potential egg and larval habitats may be exposed or dewatered when flows drop below 11,000 cfs (BPA 1993). Load-factoring also affects and modifies the primary and secondary productivity in lotic ecosystems (Ward and Stanford 1979). White sturgeon normally begin exogenous feeding within 2 weeks following hatching. Therefore, the availability of native benthos, periphyton, and zooplankton suitable as prey organisms is critical to their early survival.

The Service believes that some sturgeon spawning may occur on a periodic, and possibly annual basis in the Kootenai River. However, survival past the age/larval stage is suspect since recruitment (above age 1) was virtually non-existent from 1974 to 1978, and unknown after 1978. For example, three adult white sturgeon were captured in 1993 near Shorty's Island (river mi 141, river km 227) while fishing for broodstock sturgeon (BPA 1993). One fish was estimated at 14 years old, likely spawned during 1978. A second fish was estimated to be 14 to 17 years of age, suggesting it came from the 1975 to 1978 year class(es) while the third fish was not aged because both aging structures (pectoral fin rays) were deformed.

Another contributing factor to the white sturgeon decline is the elimination of side channel slough habitat in the Kootenai River floodplain due to diking and bank stabilization to protect agricultural lands from flooding. Much of the Kootenai River has been channelized and stabilized from Bonners Ferry downstream to Kootenay Lake, resulting in reduced aquatic habitat diversity, altering flow conditions at potential remaining spawning and nursery areas, and altering remaining substrates and conditions necessary for survival. The former slough and side channel areas were considered important rearing and foraging habitat for early age sturgeon and their prey (Partridge 1983).

In summary, these extensive aquatic habitat and flow modifications in the Kootenai River basin are believed to have caused adverse effects on white sturgeon reproduction, recruitment, and survival, and threaten the continued existence of the population.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

All legal commercial and sport harvest for Kootenai River white sturgeon has been eliminated in Idaho, Montana, and British Columbia. However, it is not known what impact, if any, to Kootenai River sturgeon may still be occurring from the illegal harvest.

While no historic evidence of white sturgeon exploitation in the Kootenai River basin during the 1800's exists (PSMFC 1992), sturgeon were utilized by the Kootenai Indians "* * * at least several hundred years ago" (Graham and White 1985). In Idaho, the harvest of white sturgeon in the Kootenai River was first regulated in 1944 when commercial fishing was prohibited and sport fishing restrictions were imposed (Apperson 1992). With increasingly restrictive harvest and length restrictions, an estimated 10 to 20 white sturgeon were harvested per year from 1944 through the mid-1970's. Partridge (1983) reported that although the legal harvest had reached a relatively constant 51 to 52 fish per year over the 1979 through 1981 period, the total number of sturgeon caught was decreasing with fewer fish being released. Partridge also found that only 13 percent (n = 50) of the 342 sturgeon sampled were younger than age 15 and smaller than the legal size of 32 in (92 cm) total length. He concluded that lack of recruitment was limiting the population and fishery. Following this investigation and citing concerns about the status of the population, Idaho terminated the legal sport harvest in 1984, limiting the sturgeon fishery to catch and release only.

In Montana, the harvest of white sturgeon was not restricted prior to 1972 (Apperson 1992). Graham and White (1985) reported that burbot (ling) anglers and fishermen using set-lines harvested sturgeon in the Kootenai River downstream of Kootenai Falls during the 1940's and 1950's. Beginning in 1972, harvest was restricted to two sturgeon per year with a slot (size) limit of between 36 and 54 in (102 to 183 cm). Over a 6-year period, 5 to 18 sturgeon were harvested annually. Fishing for sturgeon in Montana has been prohibited since 1979, and the species

is now classified as a "Species of Special Concern" (MTNHP 1993).

In British Columbia, the white sturgeon harvest was first regulated in 1952 (Apperson 1992). During the 1974 through 1989 period, anglers were required to secure a permit to fish for white sturgeon and allowed to harvest one white sturgeon per year over 1 m total length. An average of 55 permits were issued annually from 1973 to 1980 with an estimated annual legal and illegal harvest of 10 to 20 fish (Graham 1981). Most sturgeon angling occurred on or near the Kootenai River delta or in the river. Setlining for white sturgeon in British Columbia was prohibited in 1989, and a total ban on the sport harvest was imposed in 1990. Current regulations allow catch and release only for white sturgeon in Kootenay Lake.

A few adult white sturgeon are collected each year for experimental culture purposes. The Kootenai Tribal Experimental Hatchery in Bonners Ferry, Idaho, is currently evaluating factors limiting recruitment, including the relationship between water quality and gamete viability, as well as habitat use and survival of juvenile white sturgeon released into the Kootenai River. Collection for experimental culture purposes does not appear to be a threat at this time. The BPA recently completed an evaluation of a captive broodstock program to determine the environmental impacts and genetic risk of supplementation on the remaining wild white sturgeon population in the Kootenai River (Kincaid 1993).

C. Disease or Predation

Not known to be applicable. However, the potential exists for disease to enter the wild Kootenai River white sturgeon population through the release of hatchery raised sturgeon, such as those from the Kootenai Tribe's experimental hatchery. Diseases known to occur in white sturgeon hatcheries include bacterial diseases, protozoans, fungi, adenovirus, and the white sturgeon iridovirus (WSIV) (PSMFC 1992). Many of these causative diseases are commonly found in natural water systems, while the WSIV pathogen is thought to reside naturally in several wild populations of white sturgeon. During late November 1992, an outbreak of the WSIV killed most of the nearly 23,000 fingerling Kootenai River white sturgeon being raised at the Kootenai Tribe hatchery, and the IDFG hatchery at Sandpoint, Idaho. High fish densities and low dissolved oxygen conditions at the hatchery at the time of the WSIV outbreak were considered contributing factors. According to BPA (1993), WSIV problems at the experimental hatchery have been alleviated by installing additional tanks and supplying additional water. Although it appears that white sturgeon fingerlings are most susceptible to WSIV when confined under hatchery rearing conditions, the Service is concerned that WSIV and other diseases in wild white sturgeon reared in hatcheries may also be transmitted to the remaining wild population when released.

Fish predation may be a contributing source of mortality for Kootenai River white sturgeon eggs and larvae, although no data to support this suggestion exists specific to the Kootenai River. In the Columbia River downstream of McNary Dam, common carp (*Cyprinus carpio*), largescale suckers (*Catostomus macrocheilus*), and northern squawfish (*Ptychocheilus oregonensis*) have been collected with white sturgeon eggs in their stomachs (Duke et al. 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

The IDFG currently classifies the Kootenai River population of white sturgeon as endangered, which it defines as "any species in danger of extinction throughout all or a significant portion of its Idaho range" (IDFG 1992). While such designation regulates the take or possession of those species classified as threatened or endangered, the State lacks authority to impose or implement additional conservation measures to ensure survival or recovery of the Kootenai River population of white sturgeon.

In Montana, the Kootenai River white sturgeon is classified as a "Species of Special Concern" (MTNHP 1993). The fish is currently managed under restricted harvest regulation, with catch and release only and possession prohibited. Similar to Idaho, Montana also lacks authority to impose additional conservation measures on flow management at Libby Dam to benefit white sturgeon.

The Corps regulates the management of water at Libby Dam. The Libby Dam project was authorized by Title II of Public Law 81–516, the Flood Control Act of 1950, primarily for flood control, hydropower generation, and recreation purposes (Corps 1984). Present Corps policy states that equal consideration should be given to environmental concerns in accordance with project objectives. However, other than providing minimum flow releases of 4,000 cfs (113 cms) from Libby Dam to maintain rainbow trout habitat downstream, permanent operational flow alternatives for Libby Dam to benefit white sturgeon recruitment have not been implemented.

Because operation of Libby Dam is considered part of the Coordinated Columbia River System, BPA is also involved in the management of Kootenai River operations. The Coordinated Columbia River System refers to all projects operated under at least three authorities: The Columbia River Treaty, the Pacific Northwest Coordination Agreement, and Federal flood control statutes. The Columbia River Treaty of 1961 between Canada and the United States provided for the building of four storage reservoirs including Libby Dam, in the upper Columbia River drainage, primarily for flood control and power production. The Pacific Northwest Coordination Agreement, an intricate contract between the Corps, BPA, and Reclamation, calls for the planned operation to accommodate all of the authorized purposes of the Columbia River hydropower system. These authorized purposes include flood control, navigation, irrigation, and power production (System Operation Review Interagency Team 1991).

The aforementioned treaty and contract, and various Federal flood control statutes, have established stringent planning and operation criteria for the Columbia River system. In addition, alternative operational scenarios for the 14 Federal hydro projects of the Coordinated Columbia River system are being developed and analyzed by the Systems Operations Review (SOR) program. The Resident Fish Technical Work Group of SOR is evaluating alternative operations at each of the Federal projects that address the needs of Kootenai River white sturgeon, and other resident fishes. At the time of this rule, the SOR is still undergoing NEPA review and analysis. Therefore, operational changes at Libby Dam to benefit white sturgeon and other resident fish in the Kootenai River basin resulting from the SOR process are not likely to be implemented any time soon.

The Service joined efforts in June 1992 with IDFG, MDFWP, the Corps, the Kootenai Tribe, and other U.S. and Canadian regional agencies to form a Kootenai River White Sturgeon Technical Committee (Committee). The goal of the Committee was to identify factors affecting Kootenai River white sturgeon and develop a regional, prelisting recovery strategy that would form the basis of a Conservation Agreement (CA) or Memorandum of Agreement (MOA) between the Service and the various agencies. The Service noted the MOA would need to include measures to remove threats to the sturgeon and include long-term

provisions to modify flows in the Kootenai River below Libby Dam that would result in successful spawning and recruitment.

Based on discussions and recommendations by some members of the Committee, the Service adopted an interim flow proposal as the basis of any prelisting CA or MOA. This alternative attempted to match flows of 1974, the last year of successful reproduction and measurable recruitment to the population, but reduced peak flows to 35,000 cfs (1,000 cms) to minimize flooding impacts and dike damage at Bonners Ferry and reduce nitrogen supersaturation effects below Libby Dam. The interim flow strategy specified that discharge from Libby Dam be regulated so that river flows through the suspected spawning reach near Bonners Ferry stay at the 35,000 cfs (1,000 cms) discharge throughout the white sturgeon spawning, egg incubation, and early rearing period. The flow strategy also contained provisions to eliminate peak-loading during the enhanced flow period. Prior to publication of the proposed rule (58 FR 36379), the Service was unable to successfully negotiate a CA to implement the interim flow proposal developed by the Committee.

Partially as an outcome of the Committee discussions, the Corps and BPA provided 400,000 acre-feet of water from Lake Koocanusa as a test flow to stimulate white sturgeon spawning in 1993. The water was initially stored to provide flows for federally listed salmon in the lower Columbia River. However, the water was shaped and released in a manner to provide a test for white sturgeon. This water was released from Libby Dam between May 28 and June 16 to elevate Kootenai River flows at Bonners Ferry to approximately 20,000 cfs (566 cms), to provide information about sturgeon spawning activity at that flow (BPA 1993). BPA acknowledges that the duration of the 1993 test flow "* * * was probably not sufficient to allow all white sturgeon an opportunity to spawn." Intensive egg sampling and monitoring by the IDFG and Kootenai Tribe of Idaho during and following the test flow period collected three sturgeon eggs, presumably spawned by at least two female sturgeon. Based on monitoring results from the 1991 and 1993 spawning test flow, the Corps and BPA have suggested that white sturgeon will successfully spawn at flow levels lower than the 'shaped' 35,000 cfs peak flows some members of the Committee, including the Service, believe are needed to maximize sturgeon reproduction opportunities (BPA 1993; Corps 1993). Subsequently, these agencies have proposed an alternate flow strategy to provide for "* * * maximum spawning opportunity" in 3 out of 10 years starting in 1994 based on research to date and dependent upon flow forecasts and water availability. General provisions are as follows:

> In May, release flows to maintain 15,000 cubic feet per second at Bonners Ferry, Idaho, as local inflow subsides. Increase flows to 20,000 cubic feet per second at Bonners Ferry beginning at the time when water temperatures there have reached 12–13° C, and maintain for 25 days for sturgeon spawning. Commencement of 20,000 cubic feet per second flows would generally occur in early June. Flows would be reduced over 3 days to 11,000 cubic feet per second at Bonners Ferry and maintained for 28 days. Load following would be eliminated during May through July in years that proposed sturgeon flows are attempted.

The Service considers the proposal an acknowledgement by the water management agencies that flows are indeed an important component affecting sturgeon recruitment and is encouraged that the effects of flow stability, i.e., duration of and load-factoring, on sturgeon reproductive success are addressed in the flow proposal.

However, the Service believes the proposed action is deficient in at least four areas: (1) The flow proposal is not based on empirical evidence or data to support the conclusion that sturgeon spawning opportunity will be maximized throughout the potential reproductive season; (2) there is no agency commitment to initiate proposed sturgeon flows early in the 10 year cycle. For example, the flow proposal as currently worded would allow enhanced flows to start in year 7 or 8; (3) providing sturgeon flows each year is solely dependent upon "above average" water availability and will not reduce refill in Lake Koocanusa; and (4) there are no provisions to adjust flows or modify operations in future years if monitoring demonstrates a need for additional flows for white sturgeon recruitment. Additionally, the question whether successful natural recruitment 3 out of 10 years is sufficient to maintain this population still needs to be addressed.

In summary, the BPA and the Corps have committed to only providing experimental flows for white sturgeon in some years with several qualifying conditions. They have not yet committed to implement long-term conservation measures on Libby Dam operations for non-hydropower purposes, specifically to protect and enhance recruitment opportunities for white sturgeon in the Kootenai River basin. Additionally, BPA has previously stated that additional conservation measures to benefit sturgeon would be available if the species were listed.

The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Power Planning Act) was a recent attempt by the U.S. Congress to address the hydropower impacts on fish and wildlife in the Columbia River system. The Power Planning Act directed the NWPPC to "* * * promptly develop and adopt * * * a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries" (16 U.S.C. 839b(h)(1)(A)). BPA has been charged with funding all efforts and projects to protect, mitigate, and enhance fish and wildlife consistent with the NWPPC's Program. Ongoing efforts by various State agencies and the Kootenai Tribe, authorized by the NWPPC (1987) and funded by BPA, have been undertaken to identify environmental factors limiting the white sturgeon population in the Kootenai River, and develop and maintain an experimental white sturgeon culture facility on the Kootenai River. Despite these efforts to better comprehend the factors affecting the Kootenai River white sturgeon, a change in the flow regime associated with dam operation on the Kootenai River is still needed to enable this population to successfully reproduce and increase in size.

In summary, the Corps and BPA have committed to experimental flow releases from Libby Dam for Kootenai River white sturgeon in possibly 3 out of the next 10 years. However, providing these flows is contingent upon meeting other project priority uses. The proposed action increases discharge and sustains flows in the Kootenai River at only 57 percent of the discharge the Service believes is necessary to maximize sturgeon spawning and maintain suitable larval rearing habitats. Existing regulatory mechanisms are not sufficient to ensure the survival and recovery of this species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Although not fully understood, there is evidence that the overall biological productivity of the Kootenai River downstream of Libby Dam has been altered. Based on limnological studies of Kootenay Lake, Daley et al. (1981) concluded that the construction and operation of Libby Dam (and Duncan Dam, Canada) "* * * has drastically altered the annual hydrograph and has resulted in modifications to the quality of water now entering the lake by removing nutrients, by permitting the

stripping of nutrients from the water in the river downstream from the dam, and altering the time at which the nutrients are supplied to the lake." Potential threats to the Kootenai River white sturgeon from declining biological productivity include: (1) decreased prey abundance and limited food availability for all life stages of sturgeon downstream of Libby Dam, (2) reduced condition factor in adult white sturgeon, possibly impacting fecundity and reproduction, and (3) a possible reduction in the overall capacity for the Kootenai River and Kootenay Lake systems to sustain substantial populations of white sturgeon and other native fishes. The British Columbia Ministry of Environment, Lands and Parks is currently experimenting with fertilization of Kootenay Lake to increase biological productivity and enhance native fisheries (Ashley and Thompson 1993). Beginning in 1993, BPA funded IDFG and Idaho State University to study primary productivity, community respiration, and nutrient cycling in the Kootenai River from Libby Dam downstream to Kootenay Lake (BPA 1993). It will be several years before results from these studies explain what extent, if any, reduced biological productivity has been a contributing factor to the Kootenai River white sturgeon's population decline.

Poor water quality and excessive nutrients in the Kootenai River were once considered major problems for the white sturgeon and other native fishes prior to the construction and operation of Libby Dam. Graham (1981) concluded that poor water quality conditions in the 1950's and 1960's resulting from industrial and mine development most likely affected white sturgeon reproduction and recruitment. Poor water quality, i.e., heavy metals and other contaminants, may have affected white sturgeon reproductive success and impacted their prey base.

Major sources of pollution in the Kootenai River basin were effluents from a lead-zinc mine and concentrator; a fertilizer processing plant; and sewage treatment plants on the St. Mary River (an upstream tributary in Canada); and a vermiculite mine and processing plant 11 river km (7 river mi) upstream of Libby, Montana. Significant improvements in Kootenai River water quality were noted by 1977, due in part to waste water control and effluent recycling measures initiated in the late 1960's.

Today, many of these pollutants and contaminants persist, primarily bound in sediments. Apperson (1992) noted that detectable levels of aluminum, copper, lead, zinc, and strontium were found in sturgeon oocyte (egg) samples from the Kootenai River along with detectable levels of PCB's and pesticides. However, other than copper the detectable levels of these compounds (e.g., PCB's, organochlorines, zinc) were either (1) lower than levels found in other Columbia River basin sturgeon populations that successfully reproduce, or (2) not enough is known regarding the toxicity of these pollutants to sturgeon. Partridge (1983) expressed concerns that contaminants, primarily high concentrations of copper and zinc, may inhibit survival of white sturgeon eggs and larvae. Apperson (1992) believed that "* * * concentrations of copper found in white sturgeon oocytes potentially present the most severe contaminant effect on reproductive success" since some of the copper concentrations found in water samples taken in the Kootenai River were in the range of levels known to inhibit yolk uptake in larval white sturgeon.

One of the initial objectives of the Kootenai Indian Tribe's experimental hatchery was to determine the relationship between water quality (including toxicants) and gamete viability. Initial culture efforts documented successful fertilization and incubation, and that sturgeon gametes (i.e. eggs and sperm) from wild sturgeon are generally viable (Apperson and Anders 1991). While this demonstrates that wild sturgeon eggs are viable when spawned under hatchery conditions, the effects of heavy metals, organochlorines, and other contaminants in Kootenai River waters and sediments on the reproductive success of wild sturgeon is unknown.

Sturgeon eggs and embryos are sensitive to pollutants, with some heavy metals known to be toxic at very minute concentrations (Dettlaff et al. 1993). Georgi (1993) notes that the chronic effects of wild sturgeon spawning in "chemically polluted" water and rearing on contaminated sediments, in combination with bioaccumulation of contaminants in the food chain, is possibly impacting the successful reproduction and early age recruitment to the Kootenai River white sturgeon population. In summary, the degree to which poor water quality, sediment, and prey base contamination are factors threatening Kootenai River white sturgeon survival are not known, and remain potential threats to the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to issue this rule. Based on this evaluation, the preferred action is to list the Kootenai River population of white sturgeon (*Acipenser transmontanus*) as endangered because the population has been declining since the mid-1960's. The remaining population in 1993 is estimated at 785 individuals (range 569 to 1,080) based on estimated annual mortality rates and recent zero recruitment, with most individual sturgeon older than 20 years of age. There has been almost no recruitment of juveniles into the population since 1974 and the population may be reaching a stage of reproductive senescence.

The reduced river flows during the critical spring spawning and early rearing season as a result of the operation of Libby Dam has impacted recruitment since the mid-1970's, and threatens the continued existence of this population. The population also faces threats from reduced biological productivity, and possibly poor water quality and the effects of contaminants. Because this distinct population of white sturgeon is in danger of extinction throughout its range, it fits the Act's definition of an endangered species. For reasons discussed below, critical habitat is not being proposed at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Regulations implementing section 4 of the Act provide that a designation of critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat (50 CFR 424.12). The Service has completed its analysis of the biological status of the Kootenai River population of the white sturgeon, yet has not completed the analysis necessary for the designation of critical habitat. The Service has decided to proceed with the final listing determination now and to consider the designation of critical habitat in a separate rulemaking.

Consequently, the Service has determined that critical habitat for the Kootenai River population of white sturgeon is not presently determinable because information sufficient to perform the required analyses of the impacts of such a designation is lacking. The Service will continue to gather and review information concerning habitat

requirements of this sturgeon and has identified several activities that may adversely impact those habitats. For example, the Service has identified the lack of natural flows in the Kootenai River below Libby Dam as the primary threat to this white sturgeon population. Other than a need for basic understanding of streamflow conditions necessary for providing spawning and early rearing habitat during the normal May through July sturgeon spawning season, the life history requirements for other life stages of white sturgeon are not sufficiently well known to permit identification of an area in the Kootenai River basin as designated critical habitat. Additionally, many Kootenai River white sturgeon migrate freely throughout the Kootenai River system and spend part of their life in Kootenay Lake in British Columbia, Canada. Critical habitat designation is not allowed outside the United States since only Federal agencies are under the jurisdiction of section 7 of this Act.

The Service is still gathering and reviewing information on the life history needs of the Kootenai River population of the white sturgeon and the potential economic consequences of designating critical habitat. Additional biological information that may be useful in designating critical habitat for Kootenai River white sturgeon may include identification of specific river areas necessary for spawning, reproduction, and rearing of offspring; and water quantity, temperatures, and velocity in the Kootenai River required to meet some life history need (e.g., spawning and early rearing). Economic considerations in critical habitat designations are only the economic costs and benefits of additional requirements or management measures likely to result from the designation that are above the economic effects attributable to listing the population.

The Service concludes that the threats to the Kootenai River white sturgeon population and the benefits associated with listing justify taking action now, rather that waiting until a full analysis of critical habitat is completed. Protection of the sturgeon's habitat will be addressed through the recovery process and through section 7 consultations to determine whether Federal actions are likely to jeopardize the continued existence of the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions may be initiated following listing. 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) of the Act requires Federal agencies to confer 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 insure 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 be affected by this listing include the continued operation of Libby Dam and Kootenai River flow management by the Corps. The Corps would be required to consult with the Service on the previously mentioned Libby Dam operations. Bonneville Power Administration would be required to consult with the Service regarding the Kootenai River white sturgeon research program authorized by the Northwest Power Planning Council (1987) and funded by BPA. In addition, consultation by the Corps, BPA, and Reclamation may be necessary if the SOR process results in a change in the operation or reauthorization of the Joint Coordination Columbia River System.

The Act and 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 (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign 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 endangered species 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 during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Requests for copies of the regulations on listed wildlife and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063, facsimile 503/231–6243).

National Environmental Policy Act

The 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, 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, as well as others, is available upon request from the Idaho State Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Stephen D. Duke, U.S. Fish and Wildlife Service, Idaho State Office (see **ADDRESSES** section); telephone (208) 334–1931.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is hereby amended as set forth below:

PART 17—[AMENDED]

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. Section 17.11(h) is amended by adding the following, in alphabetical order under FISHES, to 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						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Sturgeon, white	*Acipenser transmontanus.*	U.S.A. (AK, CA, ID, MT, OR, WA), Canada (BC).	U.S.A. (ID, MT), Canada (BC), (Kootenai R. system).	E	549	NA	NA
*	*	*	*	*	*		*

Dated: August 19, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–21864 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 931249–3349; I.D. 082294A]

Pacific Coast Groundfish Fishery

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces an increase in the cumulative trip limit for the *Sebastes* complex caught south of Cape Mendocino in the groundfish fishery off California. This action is authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP). This action is designed to keep landings within the 1994 harvest guidelines for the complex while providing for full utilization of the complex and extending the fishery as long as possible during the year.

DATES: Effective from 0001 hours (local time) September 1, 1994, through December 31, 1994. Comments will be accepted through September 21, 1994.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN–C15700, Seattle, WA 98115–0070; or Rodney McInnis, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations (50 CFR part 663) provide for rapid changes to specific management measures that have been designated "routine." Trip landing limits (including cumulative trip limits) and frequency limits for the *Sebastes* complex are among those management measures that have been designated as routine at 50 CFR 663.23(c)(1)(i)(B). Implementation and further adjustment of those measures may occur after consideration at a single Pacific Fishery Management Council (Council) meeting. *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch, widow rockfish, shortbelly rockfish, and thornyheads. A cumulative trip limit is the maximum amount that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the individual number of landings or trips. Cumulative trip limits for 1994 apply to calendar months.

The coastwide cumulative trip limit in the limited entry fishery for the *Sebastes* complex was set at 80,000 lb (36,287 kg) per month, including no more than 14,000 lb (6,350 kg) of yellowtail rockfish caught north of Cape Lookout (45°20'15" N. lat.), or no more than 30,000 lb (13,608 kg) of yellowtail rockfish caught south of Cape Lookout, and no more than 30,000 lb (13,608 kg) of bocaccio caught south of Cape Mendocino (40°30'00" N. lat.) effective January 1, 1994 (59 FR 685, January 6, 1994). The 1994 *Sebastes* complex harvest guideline is divided into northern and southern management areas along the Washington, Oregon, and California coast. The northern harvest guideline applies to the Vancouver and Columbia subareas, and the southern harvest guideline applies to the Eureka, Monterey, and Conception subareas. In the southern area, the total harvest guideline for the *Sebastes* complex is 13,440 metric tons (mt), which is further allocated between the limited entry (8,920 mt) and the open-access fisheries (4,520 mt).

At the Council's August 1994 meeting in Portland, OR, a review of the *Sebastes* complex landings in the southern area (Eureka-Monterey-Conception) indicated that, through June 1994, approximately 3,805 mt had been landed in both limited entry and open access fisheries. This catch is 7 percent higher than during the same period in 1993. Even at this higher rate, only 8,371 mt (62 percent) of the 1994 *Sebastes* complex southern area harvest guideline and 4,856 mt (54 percent) of the limited entry allocation would be taken during the year, whereas 3,515 mt (80 percent) of the open access allocation is expected to be taken.

The Council also noted that the catch of yellowtail rockfish in the Eureka-Columbia-Vancouver area through June 1994 was 4 percent above the 1993 catch, and that the combined harvest guidelines for that area could be reached by late November 1994. The catch for bocaccio in the Conception-Monterey-Eureka areas through June 1994 was about 33 percent below that in 1992–1993, and it is possible that the overall harvest guideline for bocaccio may not be attained in 1994. However, changes to bocaccio trip limits are not warranted, due to uncertainties in species composition and distribution of the catch between open access and limited entry fisheries.

In order to encourage limited entry vessels to shift their fishing effort south, where the *Sebastes* harvest guideline is not otherwise likely to be achieved, and to reduce the harvest of yellowtail rockfish in the Eureka through Vancouver areas, the Council recommended that the limited entry cumulative trip limit for the *Sebastes* complex caught south of Cape Mendocino be increased from 80,000 lb (36,287 kg) to 100,000 lb (45,359 kg) monthly, with no changes to the existing limited entry cumulative trip limits for yellowtail rockfish caught either north or south of Cape Lookout, bocaccio caught south of Cape Mendocino, or for the open access fisheries. The limited entry cumulative trip limit for the *Sebastes* complex caught north of Cape Mendocino remains at 80,000 lb (36,287 kg) per month. This action may provide incentive for the limited entry fleet to move south of Cape Mendocino, increasing their focus on other rockfish species while reducing the pressure on yellowtail rockfish in the Vancouver-Columbia-Eureka areas.

Secretarial Action

NMFS announces the following changes to the management measures for the *Sebastes* complex taken by the limited entry fishery, contained in the 1994 fishery specifications and management measures as published at 59 FR 685, January 6, 1994, and modified at 59 FR 23638, May 6, 1994. All other provisions remain in effect.

Paragraph IV C(2)(a) is revised to read as follows:

(2)(a) No more than 80,000 lb (36,287 kg) cumulative of the *Sebastes* complex north of Cape Mendocino, or 100,000 lb (45,359 kg) cumulative of the *Sebastes* complex south of Cape Mendocino may be taken and retained, possessed, or landed per vessel per month. Within the cumulative trip limit for the *Sebastes* complex, no more than 14,000 lb (6,350 kg) cumulative may be yellowtail rockfish taken and retained north of Cape Lookout; no more than 30,000 lb (13,608 kg) cumulative may be yellowtail rockfish taken and retained south of Cape Lookout; and no more than 30,000 lb (13,608 kg) cumulative may be bocaccio taken and retained south of Cape Mendocino.

Paragraph IV C(2)(e) is added to read as follows:

(2)(e) If a vessel is used to fish north of Cape Mendocino during the month, then that vessel is subject to the trip limit for the *Sebastes* complex taken and retained north of Cape Mendocino, no matter where the fish are possessed or landed. Similarly, if a vessel is used to take and retain the *Sebastes* complex south of Cape Mendocino and possesses or lands the *Sebastes* complex north of Cape Mendocino, that vessel is subject to the northern trip limit for the *Sebastes* complex.

Classification

This action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the office of the Director, Northwest Region, NMFS (see **ADDRESSES**) during business hours.

This action is taken under the authority of 50 CFR 663.23(c), section III.C.1. of the Appendix to 50 CFR part 663, and is exempt from OMB review under E.O. 12866.

Dated: August 30, 1994.

David S. Crestin,

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

[FR Doc. 94–21815 Filed 8–31–94; 9:16 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 171
Tuesday, September 6, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Reexamination of the NRC Enforcement Policy; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement; Request for public comment.

SUMMARY: This document corrects the document appearing in the **Federal Register** of August 23, 1994 (59 FR 43298), that announced the Nuclear Regulatory Commission's intent to reexamine its enforcement program and requested public comment on whether the scope, purpose, procedures, and methods of its enforcement program are appropriate, and how they may be improved.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–2741.

On page 43298, in the first column, the **ACTION** line for the document is corrected to read as set forth above.

Dated at Rockville, Maryland this 31st day of August 1994.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Acting Chief, Rules Review and Directives Branch.

[FR Doc. 94–21860 Filed 9–2–94; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 1

[Docket No. 27836]

Use of Public Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Interpretation; extension of comment period.

SUMMARY: On August 1, 1994, the Federal Aviation Administration published a notice of its intent to reconsider the definition and legal interpretation of the term "commercial purposes" as used in the definition of "public aircraft" (59 FR 39192). After receiving a number of requests from interested parties, the agency is extending the comment period on that notice to September 30, 1994.

DATES: Comments must be received on or before September 30, 1994.

ADDRESSES: Comments on this notice should be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27836, 800 Independence Ave., SW., Washington, DC 20591. Comments may be inspected at the above address in Room 915G weekdays between 8:30 a.m. and 5:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Walsh, AGC–100, Office of the Chief Counsel, Federal Aviation Administration, 701 Pennsylvania Ave., NW., Suite 925, Washington, DC 20004; telephone (202) 376–6406.

SUPPLEMENTARY INFORMATION: On August 1, 1994, the Federal Aviation Administration published a notice of its intent to reconsider the definition and legal interpretation of the term "commercial purposes" as used in the definition of "public aircraft" (59 FR 39192). The FAA has received numerous telephonic and written requests for an extension of the comment period. The Washington State Department of Natural Resources, the National Air Carrier Association, and the Helicopter Association International, request that the comment period be extended until September 15. The Department of the Interior, Department of Justice, General Services Administration, and the National Association of Police Chiefs request an extension until October 31. The National Association of State Foresters requests a 30-day extension because of the difficulty of communicating with all its members during this particular period of time when there are a number of serious forest wildfires in the West. The FAA has determined that the closing date for comments should be extended to September 30, 1994, to accommodate these requests. Those requesting a longer extension have not advanced compelling reasons why they cannot have their comments completed by September 30.

The August 1 notice indicated that the reconsideration process should be completed within 90 days, i.e., by the target date of November 1, 1994. The FAA remains committed to an early resolution of the matter and expects that the reconsideration process will be completed by December 1, 1994.

Interested persons are invited to submit any arguments, views, or information they consider relevant. All material received by September 30 will be considered in coming to a final conclusion. Later received material may be considered as time allows. All material submitted will be available for review and copying by interested persons in the FAA Rules Docket No. 27836 at the address given above.

Issued in Washington, D.C. on August 31, 1994.

John H. Cassady,

Deputy Chief Counsel.

[FR Doc. 94–21883 Filed 8–31–94; 2:27 pm]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 93–NM–196–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes. That action would have required replacement of certain main landing gear (MLG) torque link dampers. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data indicating that the proposed actions have been accomplished on all affected airplanes; therefore, the previously identified unsafe condition no longer exists. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM–113,

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, was published in the **Federal Register** on February 1, 1994 (59 FR 4607). The proposed rule would have required replacement of suspect main landing gear (MLG) torque link dampers with serviceable dampers. That action was prompted by a report that certain MLG torque link dampers may have been assembled with incorrect parts. The proposed actions were intended to prevent loss of the damping characteristics of the torque link damper, which could lead to the loss of the MLG wheel assembly of the aircraft during takeoff or landing.

Since the issuance of that NPRM, Menasco, the manufacturer of the suspect MLG torque link dampers, has provided evidence to the FAA that the proposed requirement to replace suspect MLG torque link dampers has been accomplished on all affected airplanes. (Evidence was provided to the FAA in Menasco's facsimile, dated February 10, 1994, which is contained in the Rules Docket.)

Based on this evidence, the FAA has determined that the previously identified unsafe condition no longer exists with regard to Fokker Model F28 Mark 0100 series airplanes. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 93–NM–196–AD, published in the **Federal Register** on February 1, 1994 (59 FR 4607), is withdrawn.

Issued in Renton, Washington, on August 30, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–21834 Filed 9–2–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–ANE–08]

Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Turbomeca Arriel 1 series turboshaft engines, that currently requires repetitive checks for engine rubbing noise during gas generator shutdown, and for free rotation of the gas generator by rotating the compressor manually after the last flight of the day. This action would continue to require these checks, but eliminates the reference to the Turbomeca service bulletin, allows the pilot to perform all the checks required in this proposed rule, clarifies the inspection interval requirement for daily checks, and specifies terminating action for the repetitive checks required by this AD. In addition, this action would allow the check for engine rubbing noise to be performed during engine motoring, and specifies that the engine turbine (T4) temperature must be below 150 degrees Centigrade when performing the check for free rotation. This proposal is prompted by comments submitted by operators of the affected engines in response to the existing AD and the availability of an improved design 2nd stage nozzle guide vane. The actions specified by the proposed AD are intended to prevent engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vane, which could result in complete engine failure and damage to the aircraft.

DATES: Comments must be received by November 7, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–08, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Turbomeca, 64511 Bordes Cedex - France. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Mark Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–08." The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–08, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On November 19, 1993, the Federal Aviation Administration (FAA) issued

airworthiness directive (AD) 93–23–09, Amendment 39–8745 (58 FR 63061, November 30, 1993), applicable to Turbomeca Arriel 1 series turboshaft engines, to require repetitive checks for engine rubbing noise during gas generator shutdown, and for free rotation of the gas generator by rotating the compressor manually after the last flight of the day. That action was prompted by a report of a Turbomeca Arriel 1B engine failure, which resulted in the crash of an Aerospatiale AS350B helicopter. That condition, if not corrected, could result in engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vane, which could result in complete engine failure and damage to the aircraft.

Since the issuance of that AD, the FAA has received a significant number of comments from operators of the affected engines indicating that the performance of the checks required by this AD are within the capabilities of the pilot. The FAA has also determined that instructions contained in the AD are adequate for performance of required actions, and the Turbomeca Service Bulletin (SB) No. 72 292 0181 need not be incorporated by reference. Other comments indicated that the interval specified in the existing AD, "after the last flight of the day," is not consistent with operating and maintenance schedules for operators who typically operate "around the clock" on a 24 hours per day basis, such as medevac or police operators. In response to these comments, a "daily" interval has been specified for this check.

In addition, operators reported difficulty in listening for rubbing noises during engine shutdown, and that this check could be accomplished during engine motoring. The FAA has also determined that the check for free rotation must be accomplished on a cold engine due to the variation of rotating component clearances with engine temperature. Finally, the manufacturer has completed testing and analysis, and has accumulated sufficient field experience to substantiate the design of the improved 2nd stage nozzle guide vane. This AD would require installation of modification TU 202, which incorporates an improved 2nd stage nozzle guide vane manufactured from a new material that is more resistant to fatigue cracking, at the next engine overhaul after the effective date of this AD, but not later than December 31, 1999, as terminating action for the repetitive checks. This calendar end-date is based upon parts availability.

Turbomeca has issued SB No. 292 72 0150, dated April 10, 1992, that specifies installing an improved design 2nd stage nozzle guide vane.

This engine model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement in effect at the time of type certification. The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93–23–09 to continue to require repetitive checks for engine rubbing noise during gas generator shutdown, and for free rotation of the gas generator by rotating the compressor manually at a daily interval until installation of the improved 2nd stage nozzle guide vane.

This proposed AD would allow pilots to perform all the required checks. This action does not require special training beyond that already incurred by pilots of the aircraft having affected engines, or the use of tools or special measuring equipment, or reference to technical data. Accordingly, the FAA has determined that pilots may perform all the checks required by this proposed rule as an exception to § 43.3 of the Federal Aviation Regulations (14 CFR 43.3) regarding the performance of maintenance.

The FAA estimates that 160 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 0.2 work hours per engine to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $8,000 per engine. Based on an assumed utilization rate and an assumed modification rate, the total cost impact of the proposed AD on U.S. operators over the five year compliance period is estimated to be $3,101,600.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8745 (58 FR 63061, November 30, 1993) and by adding a new airworthiness directive to read as follows:

Turbomeca: Docket No. 94–ANE–08. Supersedes AD 93–23–09, Amendment 39–8745.

Applicability: Turbomeca Arriel turboshaft engines Models 1B that do have modification TU 76 but do not have modification TU 197 or TU 202; Arriel Models 1D and 1D1 that do not have modification TU 197 or TU 202; Arriel Models 1A, 1A1, 1A2 that have had modification TU 76 but do not have modification TU 197 or TU 202; and Arriel Models 1C, 1C1, and 1C2 that do not have TU 197 or TU 202. These engines are installed on but not limited to Aerospatiale Models AS350B, SA365, and AS565 helicopters.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vane, which could result in engine failure and damage to the aircraft, accomplish the following:

(a) For Turbomeca Arriel turboshaft engines Models 1B that have modification TU 76 but do not have modification TU 197 or TU 202; and Arriel Models 1D and 1D1 that do not have modification TU 197 or TU 202; accomplish the following:

(1) Perform a daily check for unusual engine rubbing noises during gas generator shutdown or as engine gas generator speed decreases after completion of engine motoring.

(2) Perform a daily check for free rotation of the gas generator, when T4 temperature is below 150 degrees Centigrade, by rotating the compressor manually.

(3) While checking for free rotation of the gas generator, perform a check for engine rubbing noise.

(b) For Turbomeca Arriel turboshaft engines Models 1A, 1A1, 1A2 that have modification TU 76 but do not have modification TU 197 or TU 202; and Arriel Models 1C, 1C1, and 1C2 that do not have modification TU 197 or TU 202; accomplish the following:

(1) Within 50 hours time in service (TIS) after the effective date of this AD, perform a check for unusual engine rubbing noise during gas generator shutdown or within 5 seconds after engine motoring.

(2) Thereafter, at intervals not to exceed 50 hours TIS since the last check, perform a check for unusual engine rubbing noise during gas generator shutdown or within 5 seconds after engine motoring.

(3) Perform a daily check for free rotation of the gas generator when T4 temperature is below 150 degrees C, by rotating the compressor manually.

(4) While checking for free rotation of the gas generator, perform a check for engine rubbing noise.

(c) If any engine rubbing noise is detected during the checks required by paragraphs (a) and (b) of this AD, prior to further flight replace gas generator module M03 with a serviceable module.

(d) Install the improved 2nd stage nozzle guide vane, modification TU 202, at the next engine overhaul after the effective date of this AD, but not later than December 31, 1999, in accordance with Turbomeca Service Bulletin 292 72 0150, dated April 10, 1992. Installation of this hardware constitutes terminating action to the checks required by this AD.

(e) The checks required by paragraphs (a) and (b) of this AD may be performed by the pilot holding at least a private pilot certificate as an exception to the requirements of part 43 of the Federal Aviation Regulations (14 CFR part 43). The checks must be recorded in accordance with Sections 43.9 and 91.417(a)(2)(v) of the Federal Aviation Regulations (14 CFR 43.9 and 14 CFR 91.417(a)(2)(v)), and the records must be maintained as required by the applicable Federal Aviation Regulation.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on August 24, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–21869 Filed 9–2–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 94–SW–03–AD]

Airworthiness Directives; Terra Corporation TRT 250 Series Transponder

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Aviation Administration is giving public notice that it is extending the public comment period for the notice of proposed rulemaking (NPRM) for the Terra Corporation TRT 250 series transponder, Docket No. 94–SW–03–AD, to November 7, 1994 to allow adequate time for submission of comments.

DATES: Written comments on the NPRM must be received by November 7, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–03–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. George R. Hash, Aerospace Engineer, Airplane Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas 76137, telephone (817) 222–5134, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A document proposing the adoption of a new airworthiness directive (AD), applicable to the Terra Corporation TRT 250 series transponder (transponder), was published in the **Federal Register** on May 26, 1994 (59 FR 27249). The FAA has determined that the comment period did not allow adequate time for submission of comments. This document extends the period for submittal of public comments to November 7, 1994. Since no other portion of the proposal or regulatory information has been changed, the proposed rule is not being republished.

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

Issued in Fort Worth, Texas, on August 29, 1994.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–21905 Filed 9–2–94; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 103

RIN 1515–AB58

Disclosure or Production of Customs Information Pursuant to Legal Process

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to clarify the procedures to be followed when subpoenas or other demands of courts and other authorities, except Congress, are issued to compel the disclosure or production of Customs information, *i.e.*, documents, information, or employee testimony, for use in federal, state, local, and foreign proceedings. The proposed procedures will be applicable to current and former Customs employees and to litigants who seek to compel Customs employees to disclose or produce Customs information. Specifically, the amendments seek to centralize in the Office of Chief Counsel determinations concerning the disclosure of such information. The goal of this proposal is to ensure the uniform processing of subpoenas served on Customs employees and the more efficient use of Customs personnel resources in responding to requests in a timely manner. The amendments also propose to restructure the general organizational scheme of part 103 of the Customs Regulations to clarify their application.

DATES: Comments must be received on or before November 7, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S.

Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1099 14th St., NW, Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Senoria Clarke, Office of the Chief Counsel (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Customs enforces some 600 laws for 60 agencies while facilitating the flow of merchandise in international commerce. In addition to maintaining records relevant to its enforcement functions, Customs also maintains information that has a bearing on other law enforcement provisions. Many of the records Customs maintains contain confidential business information subject to the Trade Secrets Act, 18 U.S.C. 1905, which prohibits the unauthorized disclosure of such information by an officer or employee of the United States.

Regulations pertaining to Customs release of information, *i.e.*, documents, information, or employee testimony, subpoenaed for use in judicial proceedings are found at § 103.17 of the Customs Regulations (19 CFR 103.17). But while § 103.17 provides some procedures regarding the disclosure of information, *e.g.*, the testimony of employees, and the production of documents pursuant to a subpoena *duces tecum* in cases both where the agency is and is not a party to a legal proceeding, it does not adequately describe the procedures for determining whether and how the information should be released in response to such demands.

In 1992, Customs information was subpoenaed in connection with at least 440 cases. In 1993, the number of cases increased to approximately 550. These demands for Customs information necessarily draw personnel and other resources away from the agency's mission to administer the customs and related laws concerning the importation of merchandise. As litigants increasingly subpoena information in the possession, custody or control of Customs, the need to provide clear procedures both to Customs personnel and to litigants is urgent. Clarification of the procedures would allow Customs to manage more effectively the just, speedy, and inexpensive determination of such demands while ensuring Customs has adequate time to properly consider whether the information sought should be made available.

Accordingly, Customs proposes to restructure the organizational scheme of part 103 of the regulations in general, to clarify their application, and to amend the provisions of § 103.17 in particular, to set forth procedures applicable to demands for the disclosure and production of Customs-maintained information. In proposing to revise § 103.17, we have considered other federal agencies' positions in this regard, particularly those of the Department of Justice (28 CFR Part 16, subpart B), bearing in mind the unique mission of the Customs Service as the principal border enforcement agency of the United States. Furthermore, the Federal Rules of Civil Procedure, 28 U.S.C. App., were relied upon concerning the appropriate burden litigants must bear when they subpoena information from the Federal government.

In proposing to revise the provisions of § 103.17, a balance has been sought to provide clear procedures for Customs employees and litigants to follow when Customs information is sought in Federal, State, local, and foreign proceedings. So that limited government resources will not be inordinately tied up with the processing of subpoena demands, the proposed regulations require litigants demanding Customs-maintained information to demonstrate that the information sought is (a) relevant and material to the action pending, (b) genuinely necessary to the proceeding, *i.e.*, a showing of substantial need is made, and (c) unavailable from other sources. In addition, Customs will examine whether the scope of the request is reasonable. Customs is also proposing that copies of the summons and complaint be attached to the subpoena, and that the information sought be described with particularity, so that it can be located quickly and reviewed for privilege, confidentiality, law enforcement sensitivities, and other Customs matters that impact the decision whether to withhold or release the information.

Section-by-Section Analysis and Discussion

Section 103.0

It is proposed to revise the scope section to state that the extent of production/disclosure of requested Customs information depends, to some extent, upon whether the information is requested pursuant to statutes, *i.e.*, the Freedom of Information Act, as amended (5 U.S.C. 552), or the Privacy Act of 1974, as amended (5 U.S.C. 552a), or demanded on other legal bases, *i.e.*, pursuant to a subpoena.

Sections 103.1–103.13

These sections are grouped under a new Subpart A, which carries the heading "Production of documents/disclosure of information pursuant to the FOIA". No changes to these regulatory provisions are proposed.

Sections 103.14–103.16 and section 103.18

These sections are reordered and redesignated as §§ 103.31 through 103.34 and grouped under a new Subpart C, which carries the heading "Other information subject to restricted access". Although no changes to these regulatory provisions are proposed, because redesignated § 103.18 (§ 103.33, see below) has a specific statutory basis (19 U.S.C. 1628), this authority citation is added under the authority section for part 103.

Section 103.17

This section is redesignated and expanded to embrace seven sections (§§ 103.21–103.27), all grouped under a new Subpart B, which carries the heading "Production/disclosure in Federal, State, Local, and Foreign proceedings". The provisions of the proposed new sections are as follows:

New § 103.21, headed "Purpose and definitions," is in eight paragraphs ((a) through (h)). Paragraph (a) indicates both the types of information covered and the circumstances under which the regulations apply. Paragraphs (b), (c), and (d) define the terms "Customs employee", "Customs documents", and "originating component", respectively. Paragraphs (e) through (g) serve to limit the scope of the regulations, by providing that they are not intended to impede or restrict the appropriate disclosure of: (1) any information to federal, state, local, or foreign law enforcement or regulatory agencies (paragraph e); (2) any information to certain federal attorneys and judges in connection with Customs cases referred by the Department of the Treasury to the Department of Justice for prosecution or defense (paragraph (f)); or, (3) any non-Customs information, in cases where a Customs employee, in a personal capacity, is either a party or witness to a proceeding (paragraph g). Paragraph (h) provides that these regulations do not create any rights or benefits, substantive or procedural, enforceable by any party against the United States.

New § 103.22, headed "Procedure in the event of a demand for Customs information in any federal, state, or local civil proceeding," is in eight

paragraphs ((a) through (h)). Paragraph (a) generally prohibits the production or disclosure of Customs documents or testimony by employees in Federal proceedings or State or local civil proceedings, absent the prior approval of the Chief Counsel's Office. Paragraph (b) requires Customs employees to report a demand for information under these regulations to the Regional or District Counsel, or to the Office of the Chief Counsel, depending on the employee's location, and then await instructions. Paragraph (c) requires that parties seeking Customs documents or testimony provide an affidavit (or, if an affidavit is not feasible, a statement) to Customs summarizing the information sought and its relevance to the proceeding in question. Paragraph (c) also restricts disclosure of Customs information to the scope of the demand and authorizes Chief Counsel to waive the foregoing requirements for cause shown. Paragraph (d) requires service of the affidavit (or statement) at least five working days prior to the scheduled date of the requested disclosure. Paragraph (e) provides that Chief Counsel shall immediately upon receipt of the affidavit (or statement) advise the official in charge of the Office or Division of the employee on whom process was served. Paragraph (f) sets forth the conditions for authorizing the disclosure of Customs information. Paragraph (g) provides that Chief Counsel will authorize the disclosure of Customs information, after any necessary consultation with the originating component and such efforts to limit disclosure as are in accordance with the factors specified in § 103.23.

New § 103.23, headed "Factors in determining whether to disclose information pursuant to a demand", is in two paragraphs. Paragraph (a) requires Chief Counsel to consider the applicable rules of procedure and substantive law of privilege in deciding whether to make disclosures. The regulation adopts a general approach instead of detailing a list of specific considerations because the application of rules of procedure and the substantive law concerning privilege may vary according to the nature of the demand. Paragraph (b), however, specifically identifies certain circumstances in which disclosure of Customs information will not be authorized. These circumstances, in essence, identify several areas of privilege or legally prohibited, restricted, or discretionary disclosure that are most relevant to Customs operations. They are intended to be compatible with the Freedom of Information Act, 5 U.S.C. 552(b), the Privacy Act, 5 U.S.C. 552a, and other treaties, statutes, and applicable rules of procedure. These standards are generally consistent and parallel with those issued under analogous Department of Justice regulations.

New § 103.24, headed "Procedure in the event a decision concerning a demand is not made prior to the time a response to the demand is required", provides that when a response is required before appropriate subpoena instructions have been received from Chief Counsel, the U.S. Attorney, his/her assistant, or other appropriate legal representative, shall be requested to appear with the employee upon whom demand has been made. Such legal representative shall then furnish the court with a copy of the regulations and request a stay of the demand, pending receipt of the instructions. This section parallels the Department of Justice regulations.

New § 103.25, headed "Procedure in the event of an adverse ruling", provides that when a court does not grant a stay as requested under the preceding section, the employee shall respectfully decline to comply with the demand. This section again parallels the Department of Justice regulations.

New § 103.26, headed "Procedure in the event of a demand for Customs information in a state or local criminal proceeding", provides that Customs Regional Commissioners, special agents in charge, and chiefs of field laboratories may authorize employees under their supervision to attend trials and administrative hearings in state or local criminal cases to produce records and testify as to facts in their knowledge in their official capacities on behalf of the government. However, in the event that a defendant requests or demands testimony, document production, or information, Chief Counsel authorization is required as under this subpart. This section thus clarifies circumstances relating to requests in state and local proceedings in which Chief Counsel authorization is necessary.

New § 103.27, headed "Procedure in the event of a demand for Customs information in a foreign proceeding where Customs is not a party", is in five paragraphs ((a) through (e)). Paragraph (a) requires Chief Counsel authorization, as described in paragraph (b), prior to disclosure of documents or information, or the giving of testimony in response to a demand or request in a foreign proceeding in which Customs is not a party. Paragraph (b) requires Customs employees receiving such demands concerning pre-clearance activities, if in the field, to notify immediately the Regional or District Counsel for the region or district having jurisdiction over the pre-clearance location. In connection with all other demands, they are to notify immediately the Office of the Chief Counsel. The employee shall then await appropriate subpoena instructions from the office so notified. This paragraph provides procedural clarification not provided in the current regulations. Paragraph (c) requires Chief Counsel to immediately acknowledge receipt of a demand to the Customs official in charge of the office or division of Customs—collectively referred to as the "originating component"—that employs or employed the person concerned, as a measure to enhance government efficiency in processing such demands. Paragraph (d) provides for the authorization of disclosure where the originating component has no objection and where disclosure is otherwise appropriate within the terms of § 103.23. These procedures protect Customs interests while facilitating international cooperation in judicial proceedings. Paragraph (e) additionally provides that, in cases where the information requested is related to Customs litigation or investigation, Chief Counsel will seek to limit the demands through negotiation.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, Franklin Court, 1099 14th St., NW, Suite 4000, Washington, D.C.

Inapplicability of the Regulatory Flexibility Act and Executive Order 12866

Although this document is being issued with notice for public comment, it is exempt from the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

List of Subjects in 19 CFR Part 103

Administrative practice and procedure, Confidential business information, Courts, Exports, Freedom of Information, Imports, Law enforcement, Privacy, Reporting and recordkeeping requirements, Subpoenas.

Proposed Amendment to the Regulations

For the reasons set forth above, it is proposed to amend part 103, Customs Regulations (19 CFR part 103), as set forth below:

1. The table of contents of part 103 is revised to read as set forth below to reflect the amendments that follow:

PART 103—AVAILABILITY OF INFORMATION

Sec.
103.0 Scope.

Subpart A—Production of documents/ disclosure of information pursuant to the FOIA

103.1 Public reading rooms.
103.2 Information available to the public.
103.3 Publication of information in the Federal Register.
103.4 Public inspection and copying.
103.5 Specific requests for records.
103.6 Grant or denial of initial request.
103.7 Administrative appeal of initial determination.
103.8 Time extensions.
103.9 Judicial review.
103.10 Fees for services.
103.11 Specific Customs Service records subject to disclosure.
103.12 Exemptions.
103.13 Segregability of records.

Subpart B—Production/disclosure in Federal, State, Local, and Foreign proceedings

103.21 Purpose and definitions.
103.22 Procedure in the event of a demand for Customs information in any federal, state, or local proceeding.
103.23 Factors in determining whether to disclose information pursuant to a demand.
103.24 Procedure in the event a decision concerning a demand is not made prior to the time a response to the demand is required.
103.25 Procedure in the event of an adverse ruling.
103.26 Procedure in the event of a demand for Customs information in a state or local criminal proceeding.
103.27 Procedure in the event of a demand for Customs information in a foreign proceeding where Customs is not a party.

Subpart C—Other Information Subject to Restricted Access

103.31 Information on vessel manifests and summary statistical reports.
103.32 Information concerning fines, penalties, and forfeitures cases.
103.33 Release of information to foreign agencies.
103.34 Sanctions for improper actions by Customs officers or employees.

2. The general authority citation for part 103 is revised and specific authority citations for §§ 103.33 and 103.34 are added to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Section 103.33 also issued under 19 U.S.C. 1628;

Section 103.34 also issued under 18 U.S.C. 1905.

3. Section 103.0 is revised to read as follows:

§ 103.0 Scope.

This part governs the production/disclosure of agency-maintained documents/information requested pursuant to various disclosure laws and/or legal processes. Thus, the extent of disclosure of requested information may be dependent on whether the request is pursuant to the provisions of the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Privacy Act of 1974, as amended (5 U.S.C. 552a), and/or under other statutory or regulatory authorities, as required by administrative and/or legal processes. The regulations for this part contain a discussion of applicable fees for the search, duplication, review, and other tasks associated with processing information requests pursuant to the FOIA, and also provide for the appeal of agency decisions and sanctions for the improper withholding and/or the untimely release of requested information. As information obtained by Customs is derived from a myriad of sources, persons seeking information should consult with the Chief, Disclosure Law Branch, Office of Regulations and Rulings, United States Customs Service, Washington, DC 20229, or the appropriate regional commissioner of Customs or the public information officer for the region (see locations at § 101.3) before invoking the formal procedures set forth in this part. These regulations supplement the regulations of the Department of the Treasury regarding public access to records, which are found at 31 CFR part 1, and, in the event of any inconsistency between these regulations and those of the Department of the Treasury, the latter shall prevail. For purposes of this part, the Office of the Chief Counsel is considered a part of the United States Customs Service.

4. Sections 103.1 through 103.13 are designated as subpart A and the heading for subpart A is added to read as follows:

Subpart A—Production of Documents/ Disclosure of Information Under the FOIA

5. Sections 103.14, 103.15, 103.16, and 103.18 are redesignated as §§ 103.31, 103.34, 103.32, and 103.33, respectively, and designated as subpart C and a new heading for subpart C is added to read as follows:

Subpart C—Other Information Subject to Restricted Access

6. Section 103.17 is removed.

7. A new subpart B, consisting of §§ 103.21 through 103.27 is added to read as follows:

Subpart B—Production or Disclosure in Federal, State, Local, and Foreign Proceedings

§ 103.21 Purpose and definitions.

(a) *Demands for Customs information subject to regulations.* This subpart sets forth procedures to be followed with respect to the production/disclosure of any documents contained in Customs files, any information relating to material contained in Customs files, any testimony by a Customs employee, or any information acquired by any person, as part of that person's performance of official duties as a Customs employee or because of that person's official status (hereinafter, collectively referred to as "information"), in all federal, state, local, and foreign proceedings when a subpoena, notice of deposition (either upon oral examination or written interrogatory), order, or demand (hereinafter, collectively referred to as a "demand") of a court, administrative agency, or other authority is issued for such information.

(b) *Customs employee.* For purposes of this subpart, the term "Customs employee" includes all present and former officers and employees of the United States Customs Service.

(c) *Customs documents.* For purposes of this subpart, the term "Customs documents" includes any document (including copies thereof), no matter what media, produced by, obtained by, furnished to, or coming to the knowledge of, any Customs employee while acting in his/her official capacity, or because of his/her official status, with respect to the administration or enforcement of laws administered or enforced by the Customs Service.

(d) *Originating component.* For purposes of this subpart, the term "originating component" references the Customs official in charge of the office or division of Customs that employs or employed the person, or the official's designee, served with a subpoena or other demand for Customs information.

(e) *Disclosure to government law enforcement or regulatory agencies.* Nothing in the subpart is intended to impede the appropriate disclosure of information by Customs to federal, state, local, and foreign law enforcement or regulatory agencies.

(f) *Disclosure to federal attorneys and the Court of International Trade.* Nothing in this subpart is intended to restrict the disclosure of Customs information requested by the Court of International Trade, U.S. Attorneys, or attorneys of the Department of Justice, for use in cases which arise under the laws administered or enforced by, or concerning, the Customs Service and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(g) *Disclosure of non-Customs information.* Nothing in the subpart is intended to impede the appropriate disclosure of non-Customs information by Customs employees in any proceeding in which they are a party or witness solely in their personal capacities.

(h) *Failure of Customs employee to follow procedures.* The failure of any Customs employee to follow the procedures specified in this subpart neither creates nor confers any rights, privileges, or benefits on any person or party.

§ 103.22 Procedure in the event of a demand for Customs information in any federal, state, or local civil proceeding.

(a) *General prohibition against disclosure.* In any federal, state, or local civil proceeding in which the Customs Service is not a party, no Customs employee shall, in response to a demand, furnish Customs documents or testimony as to any material contained in Customs files, any information relating to or based upon material contained in Customs files, or any information or material acquired as part of the performance of that person's official duties (or because of that person's official status) without the prior written approval of the Office of Chief Counsel, as described in paragraph (b) of this section.

(b) *Employee notification to Counsel.* Whenever a demand for information, as described in paragraph (a) of this section, is made upon a Customs employee, that employee shall immediately notify the Regional or District Counsel for the region or district where the employee is located. If the employee is located at Headquarters or outside of the United States, the employee shall immediately notify the Office of the Chief Counsel. The Customs employee shall await instructions from the Regional Counsel, District Counsel, Chief Counsel, or their designees concerning the response to the demand.

(c) *Requesting party's initial burden.* An affidavit, or, if that is not feasible, a statement by the party seeking Customs information, that sets forth a summary of the documents or testimony sought and its relevance to the proceeding, must be furnished to the appropriate Office of the Chief Counsel, as provided in paragraph (b) of this section. Any disclosure authorization for documents or testimony by a Customs employee shall be limited to the scope of the demand as summarized in such affidavit or statement. The Chief Counsel may, upon request and for good cause shown, waive the requirements of this paragraph.

(d) *Required processing time.* A demand for Customs documents or testimony, together with the affidavit or statement, shall be served at least five (5) working days prior to the scheduled date of production or disclosure, to ensure that the Chief Counsel has adequate time to consider the demand.

(e) *Counsel notification to originating component.* Upon receipt of a demand and its accompanying affidavit or statement, the Chief Counsel shall immediately advise the originating component.

(f) *Conditions for authorization of disclosure.* The Chief Counsel, subject to the terms of paragraph (h) of this section, may authorize the disclosure of Customs documents or the appearance and testimony of a Customs employee if:

(1) The demanded documents or testimony, in the judgment of the Chief Counsel, are appropriate under the factors specified in § 103.23(a) of this subpart; and

(2) None of the factors specified in § 103.23(b) of this subpart exist with respect to the demanded documents or testimony.

(g) *Limitations on the scope of authorized disclosure.* The Chief Counsel shall, following any necessary consultation with the originating component, authorize the disclosure of Customs information by a Customs employee without further authorization from Customs officials whenever possible: *Provided,* that, when the information demanded relates to that collected, assembled, or prepared in connection with litigation or an investigation supervised by a Customs Office, Chief Counsel, prior to authorizing such disclosure, seeks to limit the demand to that which would be consistent with the factors specified in § 103.23 of this subpart. The Chief Counsel shall seek to limit the demand through negotiation with appropriate authority.

(h) *Disclosure of commercial information.* In the case of a demand for commercial information or commercial documents concerning importations or exportations, the Chief Counsel or his/her designee shall obtain the authorization of the Assistant Commissioner (Commercial Operations) or his/her designee prior to the Chief Counsel authorizing the production/disclosure of such documents/information.

§ 103.23 Factors in determining whether to disclose information pursuant to a demand.

(a) *General considerations.* In authorizing disclosures pursuant to a demand, the Chief Counsel should consider the following factors:

(1) Whether the requesting party has demonstrated that the information requested is—

(i) Relevant and material to the action pending, based on copies of the summons and complaint that are required to be attached to the subpoena *duces tecum* or other demand;

(ii) Genuinely necessary to the proceeding, *i.e.*, a showing of substantial need has been made;

(iii) Unavailable from other sources; and,

(iv) Reasonable in its scope, *i.e.*, the documents, information, or testimony sought are described with particularity.

(2) Whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose; and

(3) Whether disclosure or testimony is appropriate under the relevant substantive law concerning privilege.

(b) *Circumstances where disclosure will not be made.* Among the demands in response to which disclosure will not be authorized by the Chief Counsel are those demands with respect to which any of the following factors exist:

(1) Disclosure would violate a treaty, statute (such as the Privacy Act, 5 U.S.C. 552a, or the income tax laws, 26 U.S.C. 6103 and 7213), or a rule of procedure, such as the grand jury secrecy rule, Fed. R. Crim. Proc. rule 6(e) (18 U.S.C. App.);

(2) Disclosure would violate a specific regulation;

(3) Disclosure would reveal classified or confidential information;

(4) Disclosure would reveal a confidential source or informant;

(5) Disclosure would reveal investigatory records compiled for law enforcement purposes, interfere with enforcement proceedings, or disclose investigative techniques and procedures;

(6) Disclosure would improperly reveal trade secrets without the owner's consent;

(7) Disclosure relates to documents which were produced by another agency or entity;

(8) Disclosure would unduly interfere with the orderly conduct of Customs business; or

(9) Customs has no interest, records, or other official information regarding the matter in which disclosure is sought.

§ 103.24 Procedure in the event a decision concerning a demand is not made prior to the time a response to the demand is required.

If response to a demand is required before the instructions from the Chief Counsel are received, the U.S. Attorney, his/her assistant, or other appropriate legal representative shall be requested to appear with the Customs employee upon whom the demand has been made. The U.S. Attorney, his/her assistant, or other appropriate legal representative shall furnish the court or other authority with a copy of the regulations contained in this subpart, inform the court or other authority that the demand has been or is being, as the case may be, referred for the prompt consideration of the Chief Counsel, and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

§ 103.25 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 103.22 of this chapter pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions rendered in accordance with §§ 103.22, 103.23, 103.26, and 103.27 of this subpart not to produce the documents or disclose the information sought, the Customs employee upon whom the demand has been made shall, pursuant to this subpart, respectfully decline to comply with the demand. *See, United States ex rel. Touhy v. Ragen,* 340 U.S. 462 (1951).

§ 103.26 Procedure in the event of a demand for Customs information in a state or local criminal proceeding.

Customs Regional Commissioners, special agents in charge, and chiefs of field laboratories may, in the interest of federal, state, and local law enforcement, upon receipt of demands of state or local authorities, and at the expense of the state, authorize employees under their supervision to attend trials and administrative hearings on behalf of the government in any state or local criminal case, to produce records, and to testify as to facts coming to their knowledge in their official capacities. However, in cases where a defendant in a state or local criminal case demands testimony or the production of customs documents or information, authorization from the Chief Counsel or his/her designees is required as under § 103.22 of this subpart. No disclosure of information under this section shall be made if any of the factors listed in § 103.23(b) of this subpart are present.

§ 103.27 Procedure in the event of a demand for Customs information in a foreign proceeding where Customs is not a party.

(a) *Required prior approval for disclosure.* In any foreign proceeding in which the Customs Service is not a party, no Customs employee shall, in response to a demand, furnish Customs documents or testimony as to any material contained in Customs files, any information relating to or based upon material contained in Customs files, or any information or material acquired as part of the performance of that person's official duties (or because of that person's official status) without the prior approval of the Office of the Chief Counsel, as described in paragraph (b) of this section.

(b) *Employee notification to Counsel.* Whenever a demand in a foreign proceeding is made upon a Customs employee concerning pre-clearance activities within the territory of the foreign country, that party shall immediately notify the Regional or District Counsel for the region or district having jurisdiction over the pre-clearance location. All other demands in a foreign proceeding shall be reported by Customs employees to the Office of the Chief Counsel at Headquarters. The party shall await instructions from either the Regional/District Counsel or the Office of Chief Counsel, or their designees, concerning the appropriate response to the demand.

(c) *Counsel notification to originating component.* Upon receipt of a demand, the Chief Counsel shall immediately acknowledge its receipt to the originating component.

(d) *Conditions for authorization of disclosure.* The Chief Counsel, subject to the terms of paragraph (e) of this section, may authorize the disclosure of Customs documents or the appearance and testimony of a Customs employee if:

(1) There is no objection after inquiry of the originating component;

(2) The disclosure, in the judgment of the Chief Counsel, is appropriate under the factors specified in § 103.23(a) of this subpart; and

(3) The disclosure, in the judgment of the Chief Counsel, is consistent with the factors specified in § 103.23(b) of this subpart.

(e) *Limitations on the scope of authorized disclosure.* The Chief Counsel shall, following any necessary consultation with the originating component, authorize the disclosure of Customs information by a Customs employee without further authorization from Customs officials whenever possible: *Provided,* that, when the information demanded relates to that collected, assembled, or prepared in connection with litigation or an investigation supervised by a Customs Office, Chief Counsel, prior to authorizing such disclosure, seeks to limit the demand to that which would be consistent with the factors specified in § 103.23 of this subpart. The Chief Counsel shall seek to limit the demand through negotiation with appropriate authority.

George J. Weise,

Commissioner of Customs.

Approved: August 12, 1994.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–21774 Filed 9–2–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

Steel Erection Negotiated Rulemaking Advisory Committee

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of meetings and agendas.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (FACA), notice is hereby given of the agenda for the Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC) meeting scheduled for September 20–22, 1994 in Washington, DC. Notice is also given to interested parties that may be affected by the agenda to attend this meeting. Also, notice is given of the location and

agenda for two additional Committee meetings. All of the meetings are open to the public. Information on room numbers will be available in the lobby of the designated building. A schedule of additional meetings will be provided in a future notice.

DATES: (1) Washington, DC: September 20–22, 1994. The meeting will begin at 10:00 a.m. on September 20, 1994.

(2) St. Louis: November 8–10, 1994.

(3) Washington, DC: December 6–8, 1994.

ADDRESSES: (1) Washington, DC: Quality Hotel—Capitol Hill, 415 New Jersey Ave. NW., Washington, DC 20001, (202) 638–1616.

(2) St. Louis: Embassy Suites, 901 North First Street, St. Louis, Missouri 63102, (800) 241–5151.

(3) Washington, DC: Quality Hotel—Capitol Hill, 415 New Jersey Ave., NW., Washington, DC 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, U.S. Department of Labor, Office of Information and Consumer Affairs, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 219–8151.

SUPPLEMENTARY INFORMATION: On May 11, 1994, OSHA announced that it had established the Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC) (59 FR 24389) in accordance with the Federal Advisory Committee Act (FACA), the Negotiated Rulemaking Act of 1990 (NRA) and section 7(b) of the Occupational Safety and Health Act (OSH Act) to resolve issues associated with the development of a Notice of Proposed Rulemaking on Steel Erection. Appointees to the Committee include representatives from labor, industry, public interests and government agencies.

The first two SENRAC meetings were held in Bethesda, Maryland on June 14–16, 1994 and in Denver, Colorado on July 11–13, 1994. The Committee established workgroups to address issues on fall protection, allocation of responsibility, construction specifications, and scope of the standard. Also, the Committee groundrules were formally adopted. At the third meeting, held in Boston, Massachusetts on August 16–18, 1994, the Committee determined that the proper allocation of responsibility for safety should be evaluated for all construction activities, not just for steel erection, and that any Committee recommendation to OSHA on this issue will be independent of its consensus recommendations for subpart R. Also, the Committee addressed the scope of subpart R to determine whether it will apply to erection activities other than steel buildings. These issues will be addressed again at the September 20–22 meeting in Washington, DC and the Committee acknowledged that all affected interests should actively participate in these discussions.

Agendas for the meetings are as follows:

Washington, DC (September 20–22): On September 20th, OSHA will make a presentation to the full Committee regarding the economic considerations involved in this rulemaking followed by a meeting of the Fall Protection workgroup. The September 21st meeting will begin with a full Committee discussion of the scope of the standard, addressing whether certain erection activities should be covered (i.e., precast concrete, towers and bridges). A meeting of the Allocation of Responsibility workgroup will follow This workgroup session will include discussions with representatives of building owners and general contractors to determine the proper allocation of safety responsibility among all parties involved in the construction process. The afternoon session will consist of a meeting of the Construction Specifications workgroup and presentations on this subject. The Construction Specifications discussions will continue on the morning of September 22nd and will be followed by a full Committee meeting.

St. Louis (November 8–10): To be determined at the September 20–22 meeting in Washington.

Washington, DC (December 6–8): To be determined at the November 8–10 meeting in St. Louis.

All interested parties are invited to attend both the workgroup and full Committee meetings at the times and places indicated above. No advanced registration is required. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact the Facilitator to obtain appropriate accommodations.

During the meeting, members of the general public may request permission to informally address the full Committee and workgroups.

Minutes of the meetings and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, N–2625, 200 Constitution Ave., N.W., Washington, D.C. 20210; Telephone (202) 219–7894. Copies of these materials may also be obtained by sending a written request to the Facilitator. Also, certain materials including meeting minutes, issues for resolution and notices can be obtained through the use of the OSHARULE Forum in the Department of Labor Electronic Bulletin Board System (Labor News). The Labor News can be accessed via modem at (202) 219–4784. Modem settings should be: 8 Data-Bit Words, 1 Stop Bit, Parity = None, and BAUD speeds up to 14,400.

The Facilitator, Philip J. Harter, can be reached at Suite 404, 2301 M Street, N.W., Washington, DC 20037; Telephone (202) 887–1033, FAX (202) 833–1036.

Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990, 104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*; and Section 7(b) of the Occupational Safety and Health Act of 1970, 84 Stat. 1597, Title 29 U.S.C. 656.

Signed at Washington, DC, this 31st day of August 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–21879 Filed 9–2–94; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Regulatory Program

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

ACTION: Proposed rule, public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (hereinafter the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky Administrative Regulations (KAR) pertaining to outcrop barrier pillars at 405 KAR 16:010 and 405 KAR 18:010. The amendment is intended to provide additional safeguards, and clarify ambiguities.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.], October 6, 1994. If requested, a public hearing on the proposed amendment will be held on October 3, 1994. Requests to speak at the hearing must be received by

4:00 p.m., [E.D.T.], on September 21, 1994.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to William J. Kovacic, Director, at the address listed below.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated August 1, 1994, (Administrative Record No. KY–1305) Kentucky submitted a proposed amendment to its program pursuant to SMCRA. Kentucky submitted the proposed amendment at its own initiative. The provisions of the regulations that Kentucky proposes to amend are 405 KAR 16:010 and 405 KAR 18:010.

At 405 KAR 16:010, Kentucky is requiring that surface mining activities not remove coal from outcrop barrier pillars left by underground mining, except in those circumstances where removal would have certain beneficial effects. State approval is required. Kentucky may approve the removal if it makes certain determinations that the removal would: (1) Completely eliminate existing underground workings, thereby eliminating all adverse conditions that might result from the underground workings; (2) eliminate or significantly reduce a threat to the health and safety of the public resulting from the underground workings; or (3) eliminate or significantly reduce existing or potential adverse impacts of the underground workings to the quantity or quality of ground or surface water.

At 405 KAR 18:010, Kentucky is requiring that where the coal seam approaches the land surface, the underground mine must leave an unmined section of coal to create an outcrop barrier pillar. The pillar must be of sufficient width to support the overburden and prevent failure and sudden release of water due to water pressure against the outcrop barrier pillar. The State may determine the width of the outcrop barrier on a case-by-case basis. If the coal dips toward the land surface, the width must not be less than the width given by the formula: $W = 50 + H$, where W is the minimum barrier width in feet and H is the maximum hydrostatic head in feet that can build up on the outcrop barrier pillar.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on September 21, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10),

decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 26, 1994.

David G. Simpson,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–21847 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–45–1–5927b:48–1–6197b; FRL–5055–6]

Approval and Promulgation of Implementation Plans Florida: Approval of Revisions for Human Crematory and Biological Waste Incineration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Florida for the purpose of revising biological waste and crematory regulations. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by October 6, 1994.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Resources Management Division, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, The telephone number is 404/347–2864.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: July 27, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–21909 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[TX–24–1–5942; FRL–5065–6]

Approval and Promulgation of Implementation Plan: Texas 1990 Base Year Ozone Emissions Inventories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA today proposes full approval of the 1990 base year ozone emission inventories submitted by Texas for the purpose of bringing about the attainment of the national ambient air quality standard (NAAQS) for ozone. The inventories were submitted by the State to satisfy certain Federal requirements for an approvable nonattainment area ozone State Implementation Plan (SIP) for the Houston/Galveston, Beaumont/Port Arthur, El Paso, and Dallas/Fort Worth areas of Texas.

DATES: Comments on this proposed action must be received in writing by October 6, 1994. Comments should be addressed to the contact indicated below.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–

A), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.
Texas Natural Resource Conservation Commission, Office of Air Quality, Emissions Inventory Branch, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Herbert R. Sherrow, Jr., Planning Section (6T–AP), Air Programs Branch, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7237.

SUPPLEMENTARY INFORMATION:

Background

Under the 1990 Clean Air Act Amendments (CAAA), States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAAA require ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce volatile organic compounds (VOC) emissions by 15 percent within six years after 1990. The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15 percent. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above outside transport regions.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)–(e) of title I of the CAAA. The EPA has issued a General Preamble describing the EPA's preliminary views on how the EPA intends to review SIP revisions submitted under title I, including requirements for the preparation of the 1990 base year inventory (see 57 FR 13502; April 16, 1992, and 57 FR 18070; April 28, 1992). Because the EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble (57 FR 18070, Appendix B, April 28, 1992) for a more detailed discussion of the interpretations of title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the Texas ozone base year emissions inventories, the EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Thus, the EPA will consider any comments submitted within the comment period before taking final action on today's proposal.

Those States containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the 1990 CAAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources by November 15, 1992. This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of VOC, nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during a peak ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as highway mobile sources within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Emission inventories are first reviewed under the completeness criteria established under section 110(k)(1) of the CAAA (56 FR 42216, August 26, 1991). According to section 110(k)(1)(C), if a submittal does not meet the completeness criteria, "the State shall be treated as not having made the submission." Under sections 179(a)(1) and 110(c)(1), a finding by the EPA that a submittal is incomplete is one of the actions that initiates the sanctions and Federal Implementation Plan processes (see David Mobley memorandum, November 12, 1992).[1]

Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing emission inventory submissions to the EPA. Section 110(a)(2) of the Act provides that each emission inventory submitted by a State must be adopted after reasonable notice and public hearing.[2] Final approval of the inventory will not occur until the State revises the inventory to address public comments. Changes to the inventory that impact the 15 percent reduction calculation and require a revised control strategy will constitute a SIP revision. The EPA created a "de minimis" exception to the public hearing requirement for minor changes. The EPA defines "*de minimis*" for such purposes to be those in which the 15 percent reduction calculation and the associated control strategy or the maintenance plan showing do not change. States will aggregate all such "de minimis" changes together when making the determination as to whether the change constitutes a SIP revision. The State will need to make the change through a formal SIP revision process, in conjunction with the change to the control measure or other SIP programs.[3] Section 110(a)(2) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The State of Texas submitted the 1990 base year inventories for Houston/Galveston (HGA), Beaumont/Port Arthur (BPA), El Paso (ELP), and Dallas/Fort Worth (DFW) on November 17, 1992, as a SIP revision by cover letter from the Governor. The inventories were reviewed by the EPA to determine completeness shortly after their submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete, and a letter dated January 15, 1993, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

The State of Texas subsequently held public hearings to entertain public comment on the 1990 base year emission inventories. The hearing for the HGA area was held on August 5, 1993, in Houston, Texas. The hearing for the BPA area was held on August 6, 1993, in Beaumont, Texas. The hearing for the ElP area was held on August 4,

[1] Memorandum from J. David Mobley, Chief, Emission Inventory Branch, to Air Branch Chiefs, Region I–X, "Guidance on States' Failure to Submit Ozone and CO SIP Inventories," November 12, 1992.

[2] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[3] Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I–X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

1993, in El Paso, Texas; and the hearing for the DFW area was held on August 7, 1993, in Arlington, Texas. The State provided evidence to EPA Region 6 that the public hearings were held and that the State responded to comments. The inventories were approved by the Texas Air Control Board (TACB) on November 10, 1993.

On September 1, 1993, the TACB merged with the Texas Water Commission to form the Texas Natural Resource Conservation (TNRCC), and is now called the Office of Air Quality within the TNRCC. The merger did not abrogate, void, or rescind any rules, regulations, orders, permits, or any other action previously taken by the former TACB.

2. Emission Inventory Review

Section 110(k) of the Act sets out provisions governing the EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 182(a)(1) (see 57 FR 13565–13566, April 16, 1992). The EPA is proposing to grant approval of the Texas ozone base year emissions inventories based on the Level I, II, and III review findings. This section outlines the review procedures performed to determine if the base year emission inventory is acceptable or is disapproved.

Today's action describes the review procedures associated with determining the acceptability of a 1990 base year emission inventory, and discusses the levels of acceptance that can result from the findings of the review process.

A. The Following Discussion Reviews the State Base Year SIP Inventory Approval Requirements

The Level I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the State, and assesses whether the emissions were developed according to current EPA guidance.

The Level III review process outlined below consists of 10 points that the inventory must include. For a base year emission inventory to be acceptable, it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) was provided, and the Quality Assurance (QA) program contained in the IPP was performed and its implementation documented.

2. Adequate documentation was provided that enabled the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. Point source emissions must have been prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions must have been prepared or calculated according to the current EPA guidance.

7. Biogenic emissions must have been prepared according to current EPA guidance or another approved technique.

8. The method (e.g., Highway Performance Monitoring System or a network transportation planning model) used to develop vehicle miles travelled (VMT) estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods were adequately described and documented in the inventory report.

9. The MOBILE model (or EMFAC model for California only) was correctly used to produce emission factors for each of the vehicle classes.

10. Nonroad mobile emissions were prepared according to current EPA guidance for all of the source categories.

The base year emission inventory will be approved if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in the following document: "Quality Review Guidelines for 1990 Base Year Emission Inventories", U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions, "1990 O_3/CO SIP Emission Inventory Level III Acceptance Criteria", October 7, 1992,[4] and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.[5]

[4] Memorandum from J. David Mobley, Chief, Emissions Inventory Branch, to Air Branch Chiefs, Region I–X, "Final Emission Inventory Level III Acceptance Criteria," October 7, 1992.

[5] Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region I–X, "Emission Inventory Issues," June 24, 1993.

B. The Following is a Summary of the Review of the Texas 1990 Base Year Submittal.

The TACB submitted the HGA, BPA, ELP, and DFW inventories on November 17, 1992. EPA Region 6, EPA's Office of Air Quality Planning and Standards Emissions Inventory Branch, EPA's Office of Mobile Sources (OMS), and contractor's reviewed the inventories. Comments were sent to the TACB, and the TACB responded with a resubmittal. The resubmittal underwent a second review. The review directive comments were given to Texas and discussed during an on-site visit to Austin, Texas, on September 2, 1993.

Texas addressed the final directive comments and the OMS comments and submitted revised submittal documentation to Region 6 on October 25, 1993, along with documents responding to the directive comments and the OMS comments. Region 6 compared the Texas responses with the deficiencies noted in the final directive review and OMS comments and concluded that Texas had adequately addressed the remaining deficiencies so that Region 6 could verify that Texas had satisfied the Level III criteria for the HGA, BPA, ELP, and DFW ozone nonattainment areas.

Based on Region 6's Level III review, Texas has satisfied all of the EPA's requirements for purposes of providing a comprehensive, accurate, and current inventory of actual emissions in the ozone nonattainment areas. A summary of Region 6's Level III review is given below:

1. The IPP and QA plan were submitted and approved. The QA plan was implemented and documented in the submission.

2. The documentation was adequate for the reviewer to determine the estimation procedures and data sources used to develop the inventory for all emission types.

3. The point source inventory was found to be complete.

4. The point source emissions were estimated according to EPA guidance.

5. The area source inventory was found to be complete.

6. The area source emissions were estimated according to EPA guidance.

7. The biogenic emissions were calculated using the EPA PC–BEIS model.

8. The method used to develop VMT estimates was adequately described and documented.

9. The MOBILE model was used correctly.

10. The nonroad mobile emission estimates were correctly prepared according to current EPA guidance.

Documentation of the Region 6 evaluation, including details of the review procedure, is contained in a memorandum (Attachment A) in the Technical Support Document (TSD). A general summary of the inventories is contained in Attachment B of the TSD.

Proposed Action

The EPA is proposing to fully approve the SIP 1990 base year ozone emission inventories submitted to the EPA for the Houston/Galveston, Beaumont/Port Arthur, El Paso, and Dallas/Fort Worth areas on November 17, 1993, as meeting the requirements of section 182(a)(1) of the Act.

The State has submitted complete inventories containing point, area, biogenic, on-road, and non-road mobile source data, and accompanying documentation. Emissions from these sources are presented in the following tables:

VOC

[Ozone Seasonal Emissions In Tons Per Day]

	Point source emissions	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
HGA	480.34	229.01	251.72	195.11	335.47	1491.65
BPA	245.60	32.48	31.61	32.47	91.95	434.11
ELP	11.88	27.43	39.00	11.88	12.62	102.81
DFW	66.64	174.25	306.60	97.44	126.09	771.02

NOX

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Point source emissions	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
HGA	780.65	14.37	337.03	236.92	NA	1368.97
BPA	221.01	1.44	41.09	60.72	NA	324.26
ELP	33.43	2.43	36.90	15.02	NA	87.78
DFW	108.86	19.99	293.03	166.05	NA	587.93

CO

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Point source emissions	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
HGA	334.38	28.03	2412.68	1269.55	NA	4044.64
BPA	117.16	16.08	282.69	162.64	NA	578.57
LP	7.41	2.64	327.10	112.01	NA	449.16
DFW	13.33	4.47	2837.88	1116.99	NA	3972.67

These inventories are complete and approvable according to the criteria set out in the November 12, 1992, memorandum from J. David Mobley, Chief Emission Inventory Branch, TSD and G. T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, Air Quality Management Division.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 CAAA of November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, in relation to relevant statutory and regulatory requirements.

Request for Public Comments

The EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this document, the EPA will consider any comments received by October 6, 1994.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2)).

Executive Order 12866

This action has been classified as a Table Two action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 23, 1994.

W.B. Hathaway,

Acting Regional Administrator.

[FR Doc. 94–21895 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[WV23–1–6421b, WV23–2–6422b FRL–5060–5]

Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Redesignation of the Huntington, WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to redesignate the Huntington, West Virginia area from moderate ozone nonattainment to attainment and proposes to approve the maintenance plan as a revision to the State Implementation Plan (SIP). In the final rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by October 6, 1994.

ADDRESSES: Written comments on this action should be addressed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311–2599.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp at (215) 597–8375 or Todd Ellsworth at (215) 597–2906.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action to approve West Virginia's redesignation request and maintenance plan for the Huntington portion of the Huntington-Ashland ozone nonattainment area which is located in the Rules and Regulations Section of this Federal Register.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 19, 1994.

John R. Pomponio,

Acting Regional Administrator, Region III.

[FR Doc. 94–21950 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 10 and 52

[FAR Case 92–44]

Federal Acquisition Regulation; Reconditioned Material

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to combine the clauses at 52.210–5 and 52.210–7 as an acquisition streamlining measure. This regulatory action was not subject to Office of Management and Budget (OMB) review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before November 7, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite FAR case 92-44 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 92–44.

SUPPLEMENTARY INFORMATION:

A. Background

The clauses at FAR 52.210–5, New Material, and at FAR 52.210–7, Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, address the condition of material to be furnished under Government contracts. This proposed rule adds the requirements of the clause at 52.210–7 to the clause at 52.210–5 and revises the title of the clause to read "Acceptable Material". Corresponding changes are made to the clause prescription at FAR 10.011(e).

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely rearranges and clarifies existing requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 92–44), in correspondence.

C. Paperwork Reduction Act

The Paper Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 10 and 52

Government procurement.

Dated: August 24, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 10 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 10 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 10—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

2. Section 10.010 is amended in paragraph (a), third sentence, by removing "When" and inserting "If" in its place; and by revising the fourth sentence to read as follows:

10.010 Acquiring used or reconditioned material, former Government surplus property, and residual inventory.

(a) * * * Offerors wishing to provide such used or reconditioned material, former Government surplus property, or residual inventory, shall do so in accordance with the clause at 52.210–5, Acceptable Material, and the provision at 52.210–6, Listing of Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property, as appropriate.

* * * * *

3. Section 10.011 is amended by revising paragraph (e)(1); removing paragraph (g)(1); and redesignating paragraph (g)(2) as paragraph (g), to read as follows:

10.011 Solicitation provisions and contract clauses.

* * * * *

(e)(1) The contracting officer shall insert the clause at 52.210–5, Acceptable Material, in solicitations and contracts for supplies, unless, in the judgment of the contracting officer, the clause would serve no useful purpose.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.210–5 is revised to read as follows:

52.210–5 Acceptable Material.

As prescribed in 10.011(e), insert the following clause:

ACCEPTABLE MATERIAL (DATE)

(a) Unless this contract specifies otherwise, the Contractor represents that the supplies and components, including any former Government property identified under paragraph (b) of this clause, are new, including recycled (not used or reconditioned) and are not of such age or deteriorated as to impair their usefulness or safety.

(b) The Contractor shall not furnish any item or component which is used or reconditioned material, residual inventory resulting from terminated Government contracts, or former Government surplus property, unless such item or component was listed in the applicable attachment to the offer and approved by the Contracting Officer or unless otherwise authorized, in writing, by the Contracting Officer.

(c) If the Contractor believes that furnishing used or reconditioned supplies or components will be in the Government's interest, the Contractor shall so notify the Contracting Officer in writing. The Contractor's notice shall include the reasons for the request along with a proposal for any consideration to the Government if the Contracting Officer authorizes the use of used or reconditioned supplies or components.

(d) All items or components furnished under this contract shall comply with the terms and specifications contained in the contract.

(End of clause)

52.210–7 [Removed]

5. Section 52.210–7 is removed.

[FR Doc. 94–21512 Filed 9–2–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 22 and 52

[FAR Case 93–615]

Federal Acquisition Regulation; Use of Convict Labor

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to remove all references to 18 U.S.C. 4082(c)(2), include the stipulation required by Executive Order 11755, as amended, in the clause for the convenience of users of the FAR, and add the Commonwealth of the Northern Mariana Islands to the covered jurisdictions as required by Executive Order 12608. This regulatory action was not subject to Office of Management and Budget (OMB) review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before November 7, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite FAR case 93–615 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 93–615.

SUPPLEMENTARY INFORMATION:

A. Background

A statutory provision (18 U.S.C. 4082(c)(2)), which is cited both in section 22.201 and in the clause at section 52.222–3, now applies only to offenses committed prior to November 1, 1987, and there is no statutory or Executive Order requirement to include it in the FAR. In addition, Executive Order 12608 adds the Commonwealth of the Northern Mariana Islands to the jurisdictions covered by Executive Order 11755, which the FAR text and clause implement.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely deletes an unnecessary statutory reference and adds one jurisdiction (the Commonwealth of the Northern Mariana Islands) to the coverage of the clause at 52.222–3. It also includes the stipulation required by Executive Order 11755, as amended, in the clause itself, which should be more convenient for users of the FAR but is not a substantial change. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite

5 U.S.C. 601, *et seq.* (FAR case 93–615), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 54 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: August 24, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 22 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 22.201 is revised to read as follows:

22.201 General.

(a) Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987, states: "The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care must be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services." The Executive order does not prohibit the contractor, in performing the contract, from employing—

(1) Persons on parole or probation;

(2) Persons who have been pardoned or who have served their terms;

(3) Federal prisoners; or

(4) Nonfederal prisoners authorized to work at paid employment in the community under the laws of a jurisdiction listed in the Order if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Paid employment will not

(A) Result in the displacement of employed workers;

(B) Be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or

(C) Impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those for work of a similar nature in the locality where the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Order 12608.

(b) Department of Justice regulations authorize the Director of the Bureau of Justice Assistance to exercise the power and authority vested in the Attorney General by the Order to certify and to revoke the certification of work-release laws or regulations (see 28 CFR 0.94–1(b)).

22.202 [Amended]

3. Section 22.202 is amended in the introductory paragraph by inserting after "Samoa," "the Commonwealth of the Northern Mariana Islands,".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.222–3 is revised to read as follows:

52.222–3 Convict Labor.

As prescribed in 22.202, insert the following clause:

Convict Labor (Date)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(a)(1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Order 12608.

(End of clause)

[FR Doc. 94–21511 Filed 9–2–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 13

[FAR Case 90–32]

Federal Acquisition Regulation; U.S. Government Credit Cards

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have decided to withdraw a proposed rule, FAR case 90–32, U.S. Government Credit Cards, in light of the pending legislation on streamlining of the procurement process. This rule was published in the **Federal Register** on June 27, 1990 (55 FR 26342).

FOR FURTHER INFORMATION CONTACT:

Ms. Beverly Fayson, FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755.

List of Subjects in 48 CFR Part 13

Government procurement.

Dated: August 29, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 94–21754 Filed 9–2–94; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

Defense Mapping Agency

48 CFR Part 5552

Proposed Agency Clause for FIPR Contracts

AGENCY: Defense Mapping Agency, Defense.

ACTION: Proposed rule with request for public comments.

SUMMARY: The Defense Mapping Agency (DMA) is proposing use of a clause to be included in all DMA contracts awarded for Federal Information Processing Resources (FIPR). The clause would specify rights and duties of the contractor and DMA in the event of malicious code contamination of supplies provided under a contract.

DATES: Comments must be submitted by November 7, 1994.

ADDRESSES: All comments concerning this proposed contract clause should be addressed to Viola W. Hagberg, Chief, Acquisition Policy Division, Defense Mapping Agency, 8613 Lee Highway, Mail Stop A–3, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: Wendy Leathem, Procurement Analyst, 703–285–9198.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense has established the Computer Security Vulnerability Reporting Program (CSVRP) in response to national security instructions. Under this program the Defense Information Systems Security Program Office has established the Automated System Security Incident Support Team (ASSIST) whose mission is vulnerability reporting. ASSIST has recommended all DOD elements include a clause in all contracts for computer hardware or software to protect against delivery of contaminated or malicious code. DMA proposes the use of Agency clause 5252.246–9000 "Contaminated Products".

B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies, but the proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities will also be considered in accordance with Section 610 of the Act.

C. Paperwork Reduction Act

This rule contains no information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 5552

Government procurement.

M.Z. Labovitz,

Deputy Director for Acquisition and Logistics.

Therefore, it is proposed that 48 CFR Chapter 55, consisting of Part 5552, be added as follows:

CHAPTER 55—DEFENSE MAPPING AGENCY, DEPARTMENT OF DEFENSE

PART 5552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Authority: 41 U.S.C. 421 and 48 CFR Part 1, Subpart 1.3.

Subpart 5552.2—Texts of Provisions and Clauses

5552.246–9000 Contaminated Products.

Use the following clause in all contracts for computer hardware or software:

CONTAMINATED PRODUCTS (XXX 1994)

(a) *Definitions.*

As used in this clause,

Malicious Code means computer code that is intentionally designed to surreptitiously exploit or destroy data and/or executable files, and disrupt normal operations of an automated information system.

Sanitation means the erasure or overwrite procedure executed to remove data and or executable files from magnetic media.

(b) The Contractor agrees that all products delivered under this contract are free of malicious code. Products will be scanned by the Government prior to release for general use. Scanning will occur within [fill in, recommend 7] working days after initial acceptance of the product by the Government. Upon detection of malicious code by Government procedures, the product will be returned to the Contractor for sanitation or replacement.

(c) The Contractor shall bear all costs associated with sanitization or replacement of the contaminated product. Such costs shall include the cost of transporting the product from the Government facility to the Contractor facility and return, as well as, all costs associated with delays in delivery of the product. Delay costs include impacts to the Contractor's schedule and any associated Contractor schedules that depend on the delivery and installation of the product. Such costs will be negotiated upon delivery of the sanitized product.

(d) The product shall be sanitized or replaced within [fill in, recommend 7,] working days of notification by the Government of the presence of malicious code.

(End of Clause)

[FR Doc. 94–21497 Filed 9–2–94; 8:45 am]

BILLING CODE 3490–02–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition to List the Colton Sand Dune Jerusalem Cricket as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 90-day petition finding to list the Colton sand dune Jerusalem cricket (*Stenopelmatus* sp.) as endangered under the Endangered Species Act of 1973, as amended (Act). The Service finds that substantial information has not been presented to indicate that the requested action may be warranted.

DATES: The finding announced in this notice was made on August 23, 1994. Comments and materials regarding this petition finding may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Information, comments, or questions regarding this petition finding should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008. The petition, the Service's finding, and additional information are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Marjorie Nelson, biologist, at the above address (telephone 619/431–9440).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

On January 11, 1994, the Service received a petition to list the Colton

sand dune Jerusalem cricket (*Stenopelmatus* sp.) as endangered from Dr. David Weissman of the California Academy of Sciences. The letter from Dr. Weissman, dated January 4, 1994, clearly identified itself as a petition and contained the names, signature, and address of the petitioner. A letter acknowledging receipt of the petition by the Service was sent to the petitioner on January 31, 1994.

The petitioner stated that the Colton sand dune Jerusalem cricket merits protection under the Act because of: (1) Threats to its habitat, (2) information indicating that this insect is known from only two sand dune areas in southwestern San Bernardino County, California, and (3) the cricket occurs in the same habitat as the federally listed endangered species Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*).

The Service's finding is based on information contained in the petition, conversations with the petitioner, and additional information provided to the Service by the petitioner in a letter dated March 29, 1994. All documents are on file in the Carlsbad Field Office (see **ADDRESSES** section).

Adequate rangewide surveys have not been completed for the Colton sand dune Jerusalem cricket. The Service lacks evidence of specific threats to the petitioned insect, especially any threat associated with a population decline. The insect covered by this petition may be sensitive to ecological perturbations resulting from the impacts of human activities. However, information was not presented to show correlations between the insect's ecological sensitivity and population trends. No information exists to support an assumption that the Colton sand dune Jerusalem cricket has been substantially depleted or is subject to serious threats throughout all or a significant portion of its range. Moreover, given that the insect has yet to be formally described, the taxonomic distinctiveness or validity of the species has not been determined.

The Service has carefully reviewed the petition. On the basis of the best scientific and commercial information currently available, the Service has determined that the petition does not present substantial information indicating that the requested action may be warranted. However, the Service is interested in any additional information about the Colton sand dune Jerusalem cricket that may be available. Please submit any additional information to the Carlsbad Field Office (see **ADDRESSES** section).

Author

This notice was prepared by Marjorie Nelson (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority: 16 U.S.C. 1531–1544.

Dated: August 23, 1994.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 94–21865 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Foreign Proposals To Amend Appendices to the Convention on International Trade in Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of amendments to CITES appendices proposed by foreign countries and public meeting.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animals and plants. Species for which trade is controlled are listed in Appendices I, II, and III to CITES. Any country that is a party to CITES may propose amendments to Appendix I or II for consideration by the other Parties.

This notice announces proposals submitted by Parties other than the United States and the Service's tentative negotiating positions, and invites information and comments on these proposals in order to develop negotiating positions for the U.S. delegation. The proposals will be considered at the ninth regular Meeting of the Conference of the Parties (COP9) to be held in Fort Lauderdale, Florida, from November 7–18, 1994.

DATES: The U.S. Fish and Wildlife Service (Service) will consider all comments received by September 30, 1994, in developing negotiating positions. The Service plans to publish a notice of its negotiating positions prior to the meeting of the Parties.

A public meeting will also be held to receive comments from the public on September 14, 1994.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; Mail Stop: ARLSQ, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240. The fax number is 703–358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

The public meeting will be held in the Buffet Room adjacent to the cafeteria of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address; telephone 703–358–1708.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species which are or may become threatened with extinction, and are listed in Appendices to the Convention. Currently, 122 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention. The ninth regular meeting of the Conference of the Parties to CITES (COP9) will be held in Fort Lauderdale, Florida, November 7–18, 1994.

This notice is part of a series of notices which, together with public meetings, encourage the public to participate in the development of the U.S. positions for COP9. A **Federal Register** notice published on July 15, 1993 (58 FR 38112) requested information and comments from the public on animal or plant species the United States might consider as possible amendments to the appendices. A **Federal Register** notice published on November 18, 1993 (58 FR 60873) requested public comments on possible revisions to the criteria for listing species in the CITES Appendices. A **Federal Register** notice published on January 27, 1994 (59 FR 3832) requested additional comments from the public on animal or plant species that the United States was considering submitting as

amendments to the appendices. A **Federal Register** notice published on January 28, 1994 (59 FR 4094): (1) published the time and place for COP9; (2) announced a public meeting for February 22, 1994, to discuss the 31st meeting of the CITES Standing Committee; (3) detailed the provisional agenda of the COP; and (4) requested information and comments from the public on possible COP9 agenda items and resolutions that the United States might submit. Five proposed species amendments, three resolutions and two agenda items were submitted by the Service and received by the CITES Secretariat on June 10, 1994, the deadline for consideration at COP9. Additional information on these topics will be published in a separate **Federal Register** notice.

This notice announces proposals submitted by Parties other than the United States for consideration at the forthcoming meeting of the Parties and sets forth tentative negotiating positions of the United States on foreign proposals. CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also includes species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at the meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses and the Secretariat's own findings and recommendations to all Parties no later than 30 days before the meeting. Amendments to the Appendices are adopted by a two-thirds majority of the Parties present and voting.

Information Sought

The Service solicits comments on its tentative negotiating positions on proposed species amendments submitted by Parties other than the United States. Information is also sought on the biological status of the affected species, on the amount and type of trade in specimens of the species, and on the impact of trade on their populations, especially as it relates to any potential effects on survival of the species in all or parts of its range. Comments that provide this information based on the criteria for adding or removing species from the appendices would be especially helpful. The Service will solicit comments on U.S. positions for the remaining items on the agenda for COP9, other than proposed amendments to the appendices, in a subsequent **Federal Register** notice.

The Service has based its present tentative negotiating positions mainly on the review of information presented in the proposals submitted by proponents and in terms of criteria adopted at previous meetings of the Conference of the Parties of CITES. Some of the proposals will have to be translated into English from Spanish (English translation available) or French (also official languages under terms of the Convention). Because information provided in some of the proposals or otherwise available to the Service is too incomplete to allow a thorough review of their merits, several of the tentative negotiating positions presented may be revised as additional biological and trade data are obtained. Final guidance for the delegation is to be based on the best available biological and trade information, including comments received in response to this notice.

Proposals

In accordance with the provisions of Article XV, paragraph 1(a) of the Convention the following CITES Parties have submitted proposals for changes to Appendices I and II of the Convention: Australia, Bangladesh, Belgium, Benin, Chile, Denmark, Ecuador, Egypt, France, Germany, Ghana, India, Italy, Kenya, Madagascar, Mexico, Netherlands, New Zealand, Norway, Peru, Philippines, South Africa, Sudan, Switzerland, Thailand, Tanzania, United Kingdom of Great Britain and Northern Ireland, Uruguay, and Vietnam. Proposals submitted by the United States will be discussed in a subsequent **Federal Register** notice.

A total of 92 proposals on both plant and animal species were submitted by countries other than the United States, including 10 proposals that were submitted based on the "Ten Year Review" concept first adopted at the 1981 Conference of the Parties in New Delhi, India. The Ten Year Review process seeks to correct or clarify the inclusion of species listed at the Plenipotentiary and COPI before listing criteria were adopted. Some of the proposals submitted by Switzerland under this process recommend the deletion from the appendices of those species that have not been reported in trade, unless the species should be included in Appendix II because of similarity in appearance to related taxa that do appear in trade.

It is the U.S. position (and has been at earlier COPs) that the lack of reported trade for some species should not be the sole basis for their deletion from the appendices. The lack of reported trade for some species proposed for deletion from the appendices may be due to (1) their rarity, (2) the possibility that their listing in the appendices has appropriately inhibited trade, (3) effective limits on trade by range States for the benefit of the species in that the range States may determine that trade would be detrimental to the survival of the species, or (4) the lack of proper documentation on the reporting of trade. Consequently, the Service does not believe that lack of appearance in trade is, by itself, a sufficient reason to warrant the removal of a taxon from the appendices. In establishing a tentative negotiating position on these "Ten Year Review" delisting proposals, the Service considered the degree of vulnerability of the species and the likelihood of it entering trade, and the net conservation effect of delisting.

In addition to the regular listing, delisting, and transfer proposals, Switzerland, in carrying out its responsibility as the CITES Depository Government, submitted proposals to transfer some populations from Appendix II to Appendix I (as required by earlier COPs). These proposals provide the basis for Parties to act on their previously stated intentions to return species to Appendix I if range countries do not submit, or Parties do not adopt, appropriate amendments to retain designated populations of certain species on Appendix II under provisions of Conf. 3.15 on ranching, Conf. 7.14 on export quotas, or Conf. 8.22 on ranching for crocodilians. Such is the case for some populations of crocodiles presently on Appendix II under special provisions. However, for those populations for which ranching proposals or export proposals have been submitted, and if adopted by the Parties,

Switzerland intends to withdraw its proposed amendment to transfer these populations to Appendix I.

Proposals submitted by Parties other than the United States are listed in the following table. Tentative negotiating positions and the basis for making them also are indicated. These positions were taken largely on the basis of the information contained in the proposals unless the Service has information on the species in its files, particularly from earlier COPs or meetings of permanent CITES committees. If insufficient population and/or trade information was provided, the Service's position is usually to oppose the proposal, pending the receipt of further information and a review of the relevant scientific literature. The complete text of each proposal received is available for public inspection at the Service's Office of Scientific Authority (see addresses above). The text of any referenced resolution from previous meetings of the Conference of the Parties is available from the Service's Office of Scientific Authority or Office of Management Authority.

Proposed amendments and the Service's tentative position are as follows:

Species	Proposed amendment	Proponent	Tentative U.S. position
Mammalia			
Order Chiroptera:			
Acerodon jubatus (Golden-capped fruit bat).	Transfer from II to I	Philippines	Support (1)
Acerodon lucifer (Panay giant fruit bat)	Transfer from II to I	Philippines	Support (1)
Order Edentata:			
Euphractus spp. (Armadillos)	Add to II	Chile	Oppose (2)
Order Pholidota:			
Manis spp. (Pangolins)	Add to II	Switzerland	Support (3)
Manis temminckii (Cape pangolin)	Transfer from I to II	Switzerland	Support (4)
Order Rodentia:			
Chinchilla spp. (Chinchillas)	Remove from I (domesticated specimens in South America).	Chile	Oppose (5)
Order Cetacea:			
Balaenoptera acutorostrata (Minke whale).	Transfer from I to II (Northeast Atlantic and the North Atlantic central stocks).	Norway	Oppose (6)
Order Carnivora:			
Felis bengalensis bengalensis (Leopard cat).	Transfer from I to II	Switzerland	Support (1)
Hyaena brunnea (Brown hyaena)	Transfer from I to II	Switzerland	Support (1)
Coepatus spp. (Hog-nosed skunks)	Add to II	Chile	Oppose (7)
Ailurus fulgens (Red panda)	Transfer from II to I	Netherlands	Support (1)
Order Proboscidea:			
Loxodonta africana (African elephant)	Transfer from I to II (South Africa's population).	South Africa	Under review (8a)
Loxodonta africana (African elephant)	Transfer from I to II	Sudan	Oppose (9)
Order Perissodactyla:			
Ceratotherium simum simum (White rhinoceros).	Transfer from I to II (South Africa's population).	South Africa	Oppose (8b)
Order Artiodactyla:			
Megamuntiacus vuquanghensis (Giant muntjac).	Add to I	Vietnam	Support (1)
Pseudoryx nghetinhensis (Vu Quang Ox).	Add to I	Denmark	Support (1)
Vicugna vicugna (Vicuna)	Transfer from I to II (remaining Peruvian Appendix I populations).	Peru	Oppose (10)
Vicugna vicugna (Vicuna)	Amend annotation for Appendix II populations to allow the trade in wool sheared from live vicuñas.	Chile	Support (11)
Hippopotamus amphibius (Hippopotamus).	Add to II	Belgium, Benin, and France	Support (1)
AVES			
Order Apterygiformes:			
Apteryx spp. (Kiwis)	Add to I	New Zealand	Support (1,3)
Order Tinamiformes:			
Rhynchotus rufescens maculicollis (Red-winged tinamou).	Remove from II	Uruguay	Oppose (12)
Rhynchotus rufescens pallescens (Southern red-winged tinamou).	Remove from II	Uruguay	Oppose (12)
Rhynchotus rufescens rufescens (Western red-winged tinamou).	Remove from II	Uruguay	Oppose (12)
Order Anseriformes:			
Anas aucklandica (currently listed as *Anas aucklandica aucklandica*).	Transfer from II to I	New Zealand	Support (13)
Anas chlorotis (currently listed as *Anas aucklandica chlorotis*).	Transfer from II to I	New Zealand	Support (13)
Anas nesiotis (currently listed as *Anas aucklandica nesiotia*).	Retain in I	New Zealand	Support (13)

Species	Proposed amendment	Proponent	Tentative U.S. position
Order Galliformes:			
Xenoperdix udzungwensis (Udzangwa forest partridge).	Add to I	Denmark	Oppose (2)
Order Gruiformes:			
Balearica pavonina (Black-crowned crane).	Transfer II to I	Netherlands	Oppose (2)
Order Psittaciformes:			
Cacatua goffini (Goffin's cockatoo)	Transfer from I to II	Indonesia	Oppose (14)
Eos histrio (Red and blue lory)	Transfer from II to I	Indonesia	Support (1)
Cyanoramphus malherbi (Orange-fronted parakeet).	Transfer from II to I	New Zealand	Support (15)
Cyanoramphus novaezelandiae (New Zealand or Red-crowned parakeet).	Transfer from I to II	New Zealand	Oppose (12)
Psittacus erithacus (Sao Tome/Principe populations of African gray parrot).	Retain in I in lieu of *Psittacus erithacus princeps.*	United Kingdom	Support (1)
Psittacus erithacus princeps (African gray parrot).	Transfer from I to II	United Kingdom	Support (4)
Order Cuculiformes:			
Musophagidae spp. (Turacos)	Add to II	Netherlands	Support (3)
Order Apodiformes:			
Collocalia spp. (Edible-nest swiftlets)	Add to II	Italy	Support (1)
Order Passeriformes:			
Agelaius flavus (Saffron-cowled blackbird).	Add to I	Uruguay	Support (1)
Reptilia			
Order Crocodylia:			
Melanosuchus niger (Black caiman)	Transfer from I to II (Ecuador's population pursuant to Conf. 3.15 on ranching).	Ecuador	Support (16)
Crocodylus niloticus (Nile crocodile)	Change basis of maintenance of Malagasy population on II from Conf. 7.14 to Conf. 3.15.	Madagascar	Oppose (16)
Crocodylus niloticus (Nile crocodile)	Change basis of maintenance of South Africa's population on II from Conf. 7.14 to Conf. 3.15.	South Africa	Support (18)
Crocodylus niloticus (Nile crocodile)	Transfer from II to I (Madagascar and Somalia populations).	Switzerland	Support (19)
Crocodylus niloticus (Nile crocodile)	Maintain in II pursuant to Conf. 3.15, with export quota.	Tanzania	Support (18)
Crocodylus porosus (Saltwater crocodile).	Change basis of maintenance of Indonesian population on II from Conf. 7.14 to Conf. 3.15.	Indonesia	Oppose (17)
Crocodylus porosus (Saltwater crocodile).	Transfer from II to I (Indonesian population).	Switzerland	Support (19)
Crocodylus porosus (Saltwater crocodile).	Change basis of maintenance of Australian population on II from Conf. 3.15 to Conf. 1.2.	Australia	Support (1)
Order Testudinata:			
Lissemys punctata (Indian flap-shell turtle).	Add to II	Switzerland	Support (1)
Lissemys punctata punctata (Indian flap-shell turtle).	Remove from I	Switzerland	Support (4,20)
Terrapene spp. (Box turtles)	Add to II (retain *T. coahuila* in I)	Netherlands	Support (21)
Testudo kleinmanni (Egyptian tortoise)	Transfer from II to I	Egypt	Support (22)
Order Rhynchocephalia:			
Sphenodon spp. (Tuataras) or *Sphenodon guntheri* (Brother's Island tuatara).	Add to I	New Zealand	Oppose (23)
Order Sauria:			
Phymaturus flagellifer (Racerunner lizard).	Add to II	Chile	Oppose (2)
Pristidactylus alvarol	Add to II	Chile	Support (1)
Pristidactylus torquatus	Add to II	Chile	Support (1)
Pristidactylus valeriae	Add to II	Chile	Support (1)
Pristidactylus volcanensis	Add to II	Chile	Support (1)
Callopistes palluma	Add to II	Chile	Support (22)
Varanus bengalensis (Indian monitor)	Transfer from I to II (Bangladesh population).	Bangladesh	Oppose (24)
Varanus flavescens (Yellow monitor)	Transfer from I to II (Bangladesh population).	Bangladesh	Oppose (24)
Order Anura:			
Bufo periglenes (Monte Verde or Golden toad).	Add to I	Netherlands	Support (25)

Species	Proposed amendment	Proponent	Tentative U.S. position
Mantella aurantiaca (Malagasy golden frog).	Add to I	Netherlands and Germany	Support (22)
Order Osteoglossiformes:			
Scleropages formosus (Asian bonytongue).	Transfer from II to I (Indonesian population).	Indonesia	Oppose (26)
Scleropages formosus (Asian bonytongue).	Transfer from II to I (Indonesian population).	Switzerland	Support (19)
Order Mollusca:			
Charonia tritonis (Giant triton)	Add to II	Australia	Support (1)
Placostylus spp. (New Zealand flax snails).	Add to II (New Zealand population)	New Zealand	Support (1)
Powelliphanta spp. (New Zealand land snails).	Add to II (New Zealand population)	New Zealand	Support (3)
Class Insecta:			
Colophon spp. (Cape stag beetles)	Add to I	Netherlands	Support (1)
Order Arachnida:			
Pandinus dictator (Emperor scorpion)	Add to II	Ghana	Support (3)
Pandinus gambiensis (scorpion)	Add to II	Ghana	Support (3)
Pandinus imperator (scorpion)	Add to II	Ghana	Support (22)
Plants			
Family Apocynaceae:			
Pachypodium ambongense	Transfer from II to I	Madagascar & Switzerland	Support (1)
P. brevicaule	Transfer from I to II	Madagascar & Switzerland	Support (2)
P. namaquanum	Transfer from I to II	Switzerland	Support (1)
Family Araceae:			
Alocasia sanderiana	Remove from II	Switzerland	Support (1)
Family Balanophoraceae:			
Dactylanthus taylorii	Add to I	New Zealand	Under review (27)
Family Berberidaceae:			
Berberis aristata de Candolle	Add to II	India	Support (28,2)
Family Cactaceae:			
Astrophytum asterias	Transfer from I to II	Mexico & Switzerland	Oppose (12)
Leuchtenbergia principis	Transfer from I to II	Mexico & Switzerland	Support (1)
Mammilaria plumosa	Transfer from I to II	Mexico & Switzerland	Support (2)
Family Ebenaceae:			
Diospyros mun	Add to II	Germany	Support (2)
Family Euphorbiaceae:			
Euphorbia cremersii	Transfer from II to I	Madagascar & Switzerland	Support (1)
Euphorbia primulifolia	Transfer from I to II	Madagascar & Switzerland	Oppose (29)
Family Gentianaceae:			
Gentiana kurroo	Add to II	India	Oppose (30,12,2)
Family Leguminosae (Fabaceae):			
Dalbergia melanoxylon	Add to II	Germany; Kenya	Support (1,2,31)
Pterocarpus santalinus	Add to II	India	Support (2)
Family Liliaceae:			
Aloe albiflora	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe alfredii	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe bakeri	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe barbadensis (syn. *A. vera* [*sic*])	Remove from II	Switzerland	Under review (33)
Aloe bellatula	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe calcairophila	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe compressa (inc. var. *rugosquamosa* and var. *schistophila*).	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe delphinensis	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe descoingsii	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe fragilis	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe haworthioides (inc. var. *aurantiaca*).	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe helenae	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe laeta (inc. var. *maniensis*)	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe parallelifolia	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe parvula	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe rauhii	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe suzannae	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Aloe versicolor	Transfer from II to I	Madagascar & Switzerland	Support (1,2)
Colchicum luteum	Add to II	India	Oppose (30,12,2)
Family Meliaceae:			
Entrandrophragma spp	Add to II	Germany	Support (1,2,32)
Khaya spp	Add to II	Germany	Support (1,2,32)
Swietenia macrophylla incl. natural hybrid with *S. humilis*, and *sic* with *S. mahagoni*.	Add to II	Netherlands	Under review (34)

Species	Proposed amendment	Proponent	Tentative U.S. position
Family Orchidaceae:			
Cattleya skinneri	Transfer from I to II	Switzerland & Mexico	Support (1)
Cypripedium cordigerum	Transfer from II to I	India	Oppose (30,12)
Cypripedium elegans	Transfer from II to I	India	Oppose (30,12)
Cypripedium himalaicum	Transfer from II to I	India	Oppose (30,12)
Cypripedium tibeticum	Transfer from II to I	India	Oppose (30)
Dendrobium cruentum	Transfer from II to I	Thailand	Support (2,32)
Didiciea cunninghamii	Transfer from I to II	Switzerland	Support (1)
Lycaste skinneri (var. *alba*)	Transfer from I to II	Switzerland & Mexico	Support (1)
Family Polygonaceae:			
Rheum australe	Add to II	India	Oppose (30,12,2)
Family Ranunculaceae:			
Aconitum deinorrhizum	Add to II	India	Oppose (2)
Aconitum ferox	Add to II	India	Oppose (2)
Aconitum heterophyllum	Add to II	India	Oppose (2)
Coptis teeta	Add to II	India	Support (2)
Family Rosaceae:			
Prunus africana	Add to II	Kenya	Support (1,2)
Family Scrophulariaceae:			
Picrorhiza kurrooa	Add to II	India	Oppose (30,12,2)
Family Taxaceae:			
Taxus wallichiana	Add to II	India	Support (2)
Family Theaceae:			
Camellia chrysantha	Remove from II	Switzerland	Support (1)
Family Thymelaeaceae:			
Aguilaria malaccensis (syn. *A. agallocha*).	Add to II	India	Support (2)
Family Valerianaceae:			
Nardostachys grandiflora	Add to II	India	Oppose (30,12,2)
Parts and Derivatives Proposal with respect to Appendix II plant taxa replace the standard exclusions: "tissue cultures and flasked seedling cultures" with "seedlings or tissue cultures obtained *in vitro* in sterile culture media, either liquid or solid, transported in containers commonly used for this type of cultures, with different shapes and made of different materials".		Germany	Support

[1] The listing, uplisting, downlisting, or delisting of the taxon, as proposed, appears to be justified by the biological status and trade information in the proposal or currently available to the Service.

[2] Limited population status and trade information is given, but the United States will give strong consideration to the positions of range State(s)

[3] The listing of this taxon, as proposed, appears to be justified by the trade information and/or the similarity of appearance concern.

[4] Although this proposal was not formerly submitted pursuant to the ten-year review resolution for downlisting, this proposal appears to be justified under such provisions.

[5] These species of chinchilla occurring in South America are presently listed in Appendix I and are classified as rare, vulnerable or endangered by IUCN. Complete removal of protection for captive-bred forms of these species potentially places wild populations at risk. However, a downlisting of the captive populations in South America to Appendix II may be appropriate.

[6] The United States continues to support the 1978 request from the International Whaling Commission (IWC) to take all possible measures to support the IWC ban on commercial whaling for certain species and stocks of whales and therefore opposes the transfer of the minke whale from Appendix I to II.

[7] Trade information considered insufficient, and trade of species occurring in the United States does not appear to warrant listing the entire genus. Five species identified in Mammals Checklist of the World by Wilson and Reeder (1993) including two, *C. leuconotus* and *C. mesoleucus*, that occur in southwestern part of the United States.

[8a] The Service believes that in order for the African countries to maintain sustainable populations of African elephants, the people in those countries must realize both consumptive and nonconsumptive benefits from this natural resource. The proposal as written, however, does not obligate South Africa to obtain approval from the CITES Parties before trading in ivory after COP10, and the United States does not support reopening the ivory trade. A Panel of Experts established under the provisions of resolution Conf. 7.9 is reviewing in-country trade controls. The U.S. will develop its position after receipt of the Panel's report.

[8b] This proposal would allow legal trade in rhino horn products, albeit with strict in-country controls, and such trade is premature until illegal trade is under control.

[9] This proposal does not meet trade control provisions outlined in resolution Conf. 7.9.

[10] The Service is concerned that no information has been presented to show that the vicuna populations on Appendix II have benefited from the harvest now proposed for all populations. The Service is also concerned about a request in the proposal to market internationally both wool from live vicunas and wool from warehoused stocks. No trade controls such as those proposed by Chile are proposed to ensure that illegal wool does not enter trade.

[11] Export of fiber and reimport of processed fiber could be monitored to control inclusion of illegal fiber in any significant amount. No downlisting of Appendix I populations is proposed, as with the Peruvian proposal.

[12] The population-status information is not sufficient to warrant the listing, uplisting, downlisting, or delisting as proposed.

[13] These entities are listed as a single species *Anas nesiotas* in CITES-adopted checklist and the subspecies *Anas aucklandica nesiotas* is already on Appendix I. Consider recommendation of the Nomenclature Committee as to whether to list as a single or as three species.

[14] The Service is concerned with the methodology used in the study on which this proposal is based and understands that this study is being reviewed by IUCN peer group.

[15] While the biological status and trade information supports this proposal, the "species" is considered to be a color morph of *C. auriceps* in the CITES-adopted checklist. Therefore, consider the recommendation of the Nomenclature Committee.

[16] While the Service has a tentative position to support this proposal, the final position will depend in part upon the proponent providing specific procedures and regulations for licensing and inspection commitments and specific details for long-term population monitoring program.

[17] The Service remains concerned about the management and enforcement, including but not limited to the considerations presented in footnote 18a.

[18a] The transfer of certain crocodilian populations from Appendix I to II was proposed pursuant to Conf. 3.15 (ranching) or Conf. 7.4 (export quota). The Service's initial support of these proposals is contingent upon assurance that (1) annual reports are being regularly filed with the CITES Secretariat by the proponent, (2) there is an adequate basis to monitor the status of wild populations, (3) animals will be returned to the wild in numbers as appropriate, and (4) there is an implementable limit on the harvest of wild juveniles and adults.

[18b] The Service supports continuation of Appendix II listing under Conf. 3.15 but opposes expansion of wild harvest quotas beyond currently authorized levels without additional justification.

[19] Switzerland, as depository government, proposed the transfer from Appendix II to I of those species that were downlisted from Appendix I to II under the provisions of Conf. 7.14. If ranching or export quota proposals are adopted by the Parties, Switzerland will withdraw its proposal for those populations.

[20] Support for this proposal is conditioned upon the inclusion of the entire species *L. punctata* in Appendix II.

[21] The United States submitted a similar proposal for this genus, but was able to include more recent information in its proposal, a copy of which is available from either the Office of Management Authority or Office of Scientific Authority.

[22] Support for this proposal is based on trade levels and the historical effects of trade on other populations or the reproductive characteristics of the species. However, the Service will consider any new population information.

[23] The Service considers this species to be included in Appendix I already, based on the present listing. The report of the Nomenclature Committee supports this position, and, if adopted, will render the New Zealand proposal redundant. Should another species of tuatara be described, adding *S. guntheri* would add confusion to any listing of all tuataras on Appendix I.

[24] Although this is proposed as a tentative transfer to Appendix II until the next COP, the Service's position has been not to support the commercial sale of confiscated specimens of Appendix I species.

[25] The Service would support listing of this taxon in Appendix I on the basis of resolution Conf. 2.19 (i.e., due to the taxon's rarity, and because any trade in this taxon would be detrimental).

[26] Malaysia has had a captive breeding facility registered for this species in accordance with Article VII paragraph 4 and pursuant to resolution Conf. 8.15. Indonesia is proposing to register similar facilities but to date these have not been accepted by the CITES Secretariat. In the absence of the registration of one or more facilities in Indonesia, this proposal by Indonesia would preclude commercial trade in this species. Therefore, Indonesia may wish to consider modifying their proposal to continue the present downlisting to Appendix II pursuant to Conf. 7.14 with an export quota.

[27] The trade concern is the export of the "wood-rose," which may or may not be legally included under CITES by listing *Dactylanthus taylorii*, because the "wood-rose" is tissue of various common host trees or shrubs that has been wholly transformed by the action of *D. taylorii*.

[28] *Berberis aristata* of authors not de Candolle=*B. chitria* (and/or *B. floribunda*).

[29] The downlisting of this taxon appears to be unjustified, because of similarity-of-appearance concerns for the remaining dwarf taxa of subgenus *Lacanthis*.

[30] Trade information considered insufficient.

[31] The United States would want this proposal amended to exclude musical instruments. This species is often called African blackwood; although in the proposal one of the common names mentioned is African ebony, true ebony including African ebony normally are regarded to be species of *Diospyros*.

[32] The listing of this taxon appears to be justified; similarity-of-appearance also is a concern.

[33] The proposal is in error in not treating *Aloe barbadensis* as a synonym of *Aloe vera*. The parts and derivatives of artificially propagated *Aloe vera* already are not regulated by CITES. The Service is considering whether artificially propagated whole plants of *Aloe vera* can be dealt with in a better way, without putting wild *Aloe* taxa at increased risk.

[34] The United States expects to receive information regarding this species and its trade at a meeting of the Linnean Society on September 8, 1994. Information from range States and import data are also being sought and considered. Note that hybrids between *Swietenia macrophylla* and *S. mahagoni* are spontaneous but are not natural hybrids in terms of Resolution Conf. 2.13; they sometimes occur where *S. macrophylla* has been introduced by people into proximity with *S. mahagoni*. If the United States were to support this proposal, it would want it amended to exclude parts and derivatives other than saw logs, sawn wood, veneer sheets, and perhaps plywood sheets.

Future Actions

The Service will announce in the **Federal Register** the revised provisional agenda and working program for COP9 and resolutions submitted by the Parties. That **Federal Register** notice will present the Service's tentative negotiating positions on these agenda items and resolutions.

The Nomenclature Committee, in conjunction with the Wildlife trade Monitoring Unit, has been working to review and resolve numerous ambiguities in the Appendices that arose from the listing of taxa at the plenipotentiary and first meetings of the Conference of the Parties. Supporting documents were not a matter of record at these initial meetings. In addition, accepted names for those originally listed taxa have changed in some instances. The Nomenclature Committee has submitted a list of such clarifications to the CITES Secretariat for consideration by the Parties at COP9. A copy of this report is available from the Office of Scientific Authority.

The next regular meeting of the Parties is scheduled to be held in Fort Lauderdale, Florida from November 7–18, 1994. The Service will develop final negotiating positions and announce these decisions prior to the meeting of the Conference of Parties. These negotiating positions will be based upon the best available biological and trade information, taking into account comments received in response to this notice. If further information is presented at the meeting in Fort Lauderdale, the U.S. delegation to COP9 will also take it into account in determining whether the Service's previous positions remain appropriate.

Public Meeting

The Service announces a public meeting on September 14, 1994, from 9:30 a.m. to 1:00 p.m. in the Buffet Room adjacent to the cafeteria of the Department of the Interior, 18th and C Streets, NW., Washington, DC. This meeting is being held to provide information about COP9, and to receive comments from the public on the proposed amendments to the Appendices, the proposed resolutions, and other agenda items.

This notice was not subject to Office of Management and Budget review under EO 12866. This notice was prepared by Drs. Charles W. Dane, Bruce MacBryde, and Marshall Howe, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Export, Imports, Transportation, and Treaties.

Dated: August 30, 1994.

George R. Frampton, Jr.,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 94–21994 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 171
Tuesday, September 6, 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

Animal and Plant Health Inspection Service

[Docket No. 94–088–1]

Availability of Environmental Assessments and Findings of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that four environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit number	Permittee	Date issued	Organisms	Field test location
94–172–01 ...	Barham Seeds, Incorporated.	7–27–94	*Brassica oleracea* (broccoli) plants genetically engineered to express male sterility and tolerance to phosphinothricin herbicides.	California.
94–180–02 ...	Upjohn Company.	7–27–94	Squash plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus.	Maryland, North Carolina.
94–161–01 ...	Du Pont Agricultural Products.	7–29–94	Canola plants genetically engineered to express altered genes affecting seed fatty acid composition.	Arizona.
94–166–01 ...	Mycogen Corporation.	7–29–94	Alfalfa plants genetically engineered to express a gene from *Bacillus thuringiensis* (Bt) for resistance to coleopteran insects.	California, Idaho, Wisconsin.

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

Done in Washington, DC, this 30th day of August 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–21882 Filed 9–2–94; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Supplement to Final Environmental Impact Statement for East Curlew Creek Area Timber Sales, Colville National Forest, Ferry County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to final environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare a Supplement to the Final Environmental Impact Statement (EIS) for East Curlew Creek Area Timber Sales. The final EIS and Record of Decision were released in March 1994 (Notice of Availability date is March 25, 1994, 59 FR 14162). After a lighting storm in July 1994, a fire began in the Copper Butte area. This fire burned over 133 acres of prepared timber sale harvest units in the East Curlew Creek Area timber sales while damaging or killing timber within a 10,670 acre area. The area damaged by fire is partially within and adjacent to the original analysis area. This significant new circumstance has dictated substantial changes that must be reanalyzed as a supplement to the existing analysis.

ADDRESSES: Submit written comments and questions about this Supplement to Republic Ranger District, Colville National Forest, 180 North Jefferson, P.O. Box 468, Republic, Washington 99166, Phone: (509) 775–3305.

FOR FURTHER INFORMATION CONTACT: Pat Egan, Republic District Ranger, Colville National Forest.

SUPPLEMENTARY INFORMATION: The original decision was to have two timber sales—Alec Timber Sale and Santim Timber Sale. The Alec Timber sale was to harvest 3.8 million board feet (MMBF) of timber from approximately 771 acres without any road construction. The Santim Timber Sale was to harvest 4.2 MMBF of timber from approximately 754 acres while constructing 2.3 miles of road. The original analysis area was approximately 29,600 acres and included a portion of the Profanity Roadless Area which was considered, but not selected for Wilderness designation.

On May 27, 1994, the Regional Forester signed a Decision Notice for the Continuation of the Interim Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales (also known as screening direction). These Interim Direction changes were made to the East Curlew Area Timber Sales Record of Decision to conform to this Interim Direction.

The July fire and Regional Interim Direction have resulted in new circumstances and substantial changes to the original decision for East Curlew Creek Area Timber Sales. The proposed action begin considered in this Supplement is as follows: (1) A Copper Salvage Sale, which would harvest approximately 5.0 MMBF from 750 acres with no road construction, (2) Santim Timber Sale, which would harvest approximately 2.6 MMBF from 346 acres with no road construction; and (3) no change in the Alec timber sale. No road construction is planned within the Profanity Roadless Area. The draft Supplement will be tiered to the final EIS for the Colville National Forest Land and Resource Management Plan (December, 1988).

The Supplement will be prepared, circulated and filed in the same fashion (exclusive of scoping), as a draft and final environmental statement (40 CFR 1502.9). The draft Supplement is expected to be filed in January 1995 and available for public comment and review.

The comment period on the draft Supplement to the final EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft Supplement to final EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft Supplement stage but that are not raised until after completion of the final Supplement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final Supplement to the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft Supplement to the final EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft Supplement, comments may also address the adequacy of the draft Supplement to the final EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act at 40 CFR 1503.3 in addressing these points.)

After the 45 day comment period ends on the draft Supplement to the final EIS, the comments will be analyzed and considered by the Forest Service in preparing the final Supplement to the final EIS. The final Supplement is scheduled to be completed by March 1995. In the final Supplement to the Final EIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). Edward L. Schultz, Forest Supervisor, Responsible Official will consider the comments, responses, environmental consequences discussed in the Supplement to the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under 36 CFR 215.

Dated: August 24, 1994.

Edward L. Schultz,

Forest Supervisor.

[FR Doc. 94–21868 Filed 9–2–94; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Survey of Local Government Finances (School System).

Form Number(s): F33, F33–1, F33–L1.

Agency Approval Number: 0607–0700.

Type of Request: Revision of a currently approved collection.

Burden: 2,871 hours.

Number of Respondents: 894.

Avg Hours Per Response: 3 hours 12 minutes.

Needs and Uses: The Census Bureau collects financial data for public school

systems as part of its Annual Survey of State and Local Government Finance. This survey is the only comprehensive source of public fiscal data collected on a nationwide scale using uniform definitions, concepts, and procedures. Data are incorporated with other state and local government finance data and entered into the national income accounts. Data are also used in long–established Census Bureau reports and provided to the National Center for Education Statistics (NCES). The collection of these data at the school system level are closely coordinated with the NCES' National Public Education Finance Survey (NPEFS) which obtains state totals for revenue and expenditure items.

Affected Public: State or local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–21827 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.

Title: Benchmark Survey of U.S. Direct Investment Abroad-1994.

Form Number(s): BE–10.

Agency Approval Number: None.

Type of Request: New.

Burden: 451,200 hours.

Number of Respondents: 2,830.

Avg Hours Per Response: 159.4 hours.

Needs and Uses: The purpose of the benchmark survey of U.S. direct investment abroad is to obtain comprehensive data on the overall operations of U.S. parent companies and their foreign affiliates, and on positions and transactions between them. The survey is mandated by Congress to provide a factual framework for addressing the concerns of policymakers and the general public about the effects of direct investment abroad on the U.S. and foreign economies. The data from the survey will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. The data are needed to record the size of U.S. direct investment abroad, measure changes in such investment, and assess its impact. They are also required for compiling the balance of payments, international investment position, and national income and product accounts of the United States.

Affected Public: Businesses or other for–profit institutions.

Frequency: Quinquennially.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Agency: Bureau of Economic Analysis.

Title: Foreign Airline Operators' Revenue and Expenses in the United States.

Form Number(s): BE–36.

Agency Approval Number: 0608-0013.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 325 hours.

Number of Respondents: 65.

Avg Hours Per Response: 5 hours.

Needs and Uses: The survey is required in order to obtain comprehensive data concerning foreign air carriers' revenues and expenses in the United States. The data are needed primarily to compile U.S. international accounts.

Affected Public: Businesses or other for–profit institutions (foreign airline companies).

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Agency: Bureau of Economic Analysis.

Title: Ocean Freight Revenues and Foreign Expenses of United States Carriers; and U.S. Airline Operators' Foreign Revenues and Expenses.

Form Number(s): BE–30 and BE–37.

Agency Approval Number: 0608–0011.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,088 hours.

Number of Respondents: 58.

Avg Hours Per Response: 9 hours.

Needs and Uses: The BE–30 is required in order to obtain comprehensive data concerning United States ocean carriers' freight revenues and foreign expenses. The BE–37 is required to obtain comprehensive data concerning United States airline operators' foreign revenues and expenses. The data from both surveys are needed primarily to compile U.S. international accounts.

Affected Public: Businesses or other for–profit institutions (U.S. ocean carriers and U.S. airline operators).

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Agency: Bureau of Economic Analysis.

Title: Foreign Ocean Carriers' Expenses in the United States.

Form Number(s): BE–29.

Agency Approval Number: 0608–0012.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 520 hours.

Number of Respondents: 130.

Avg Hours Per Response: 4 hours.

Needs and Uses: The survey is required in order to obtain comprehensive data concerning foreign ocean carriers' expenses in the United States. The data are needed primarily to compile U.S. international accounts.

Affected Public: Businesses or other for–profit institutions (foreign carriers' U.S. agents).

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Paul Bugg, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–21828 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–CW–F

Office of the Secretary

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Iain S. Baird
Hugh L. Brennan
Gilbert Colón
Anthony A. Das
Barbara S. Fredericks
James V. Hackney
Robert F. Kugelman
Melissa A. Moss
Frederick T. Knickerbocker

Charles H. McEnerney,

Human Resources Specialist.

[FR Doc. 94–21904 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–BS–M

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Distribution License Procedure.

Agency Form Number: None but requirements are found at Section 773.3 of the Export Administration Regulations.

OMB Approval Number: 0694–0015.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 5,698 hours.

Number of Respondents: 4,225.

Avg Hours Per Response: Varies between 5 minutes and 40 hours depending on the requirement.

Needs and Uses: The information collected under the Distribution License Procedure is used to determine if an exporter needs a Distribution License and if an exporter qualifies for the license. Additional information is used to confirm DL holders compliance with the requirements of the license.

Affected Public: Businesses or other for–profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: International Trade Administration (ITA).

Title: Petition Format for Requesting Relief Under U.S. Antidumping.

Agency Form Number: ITA–357P and requirements can be found at 19 CFR 353.12.

OMB Approval Number: 0625–0105.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,520 hours.

Number of Respondents: 38.

Avg Hours Per Response: 40.

Needs and Uses: Under Section 732 of the Tariff Act, as amended, the Department of Commerce is required to initiate an antidumping investigation when a domestic interested party alleges the elements necessary for the imposition of an antidumping duty on an imported product. The antidumping petition is used to gather the information necessary to determine whether an antidumping duty investigation is warranted. The information requested relates to the existence of sales at less than fair value and injury to the affected U.S. industry. This information is necessary in setting forth an allegation that foreign merchandise is being dumped in the United States and forms the basis for initiating an investigation.

Affected Public: Businesses or other for–profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: International Trade Administration (ITA).

Title: Marketing Data Form (MDF).

Agency Form Number: ITA–466P.

OMB Approval Number: 0625–0047.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 2,475 hours.

Number of Respondents: 3,300.

Avg Hours Per Response: 45 minutes.

Needs and Uses: The Marketing Data Form is sent to participants along with other materials necessary to participate in an ITA trade exhibition, trade mission or matchmaker. The MDF provides information necessary to produce export promotion brochures and directories and to arrange appointments and prospect calls on behalf of the participants with key prospective buyers, agents, distributors or government officials. Specific information is also requested in terms of the participants' objectives. Without this information, ITA would have no basis for preparing promotional activities.

Affected Public: Businesses or other for–profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Information Needed for Share Transfer in Wreckfish Fishery.

Agency Form Number: None Assigned.

OMB Approval Number: 0648–0262.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 4 hours.

Number of Respondents: 15.

Avg Hours Per Response: 15 minutes.

Needs and Uses: Amendment 5 to the Fishery Management Plan for the Snapper–Grouper Fishery of the South Atlantic Region implemented a limited entry program for its wreckfish sector consisting of transferable percentage shares of the annual total allowable catch. The reporting requirement relates to the reports required when percentage shares are transferred or sold to another The information provided is used to record the sale and to reissue the shares certificate.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for Authorized Chart Agent.

Agency Form Number: NOAA 49–74.

OMB Approval Number: 0648–0164.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 150 hours.

Number of Respondents: 600

Avg Hours Per Response: 15 minutes.

Needs and Uses: The information collected is needed to determine if applicants to become chart agents are qualified. The information is also used to determine if there will be enough of a market in the sales area to justify the maintenance of an account.

Affected Public: Small businesses or organizations.

Frequency: On occasion — information is submitted to the National Ocean Service on a one–time basis.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Species–Specific Seafood Marketing Council Requirements.

Agency Form Number: None.

OMB Approval Number: 0648–0215.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 320 hours.
Number of Respondents: 1.
Avg Hours Per Response: 320 hours.
Needs and Uses: The Fish and Seafood Promotion Act of 1986 requires the Secretary of Commerce to charter Seafood Marketing Councils. The mission of such Councils will be to promote fish and fish products, improve marketing and utilization of fish, and provide consumer education on the value of fish products. Information is required in order for the Secretary to approve a Council and, once it is, certain reports must be filed. Without this information, NOAA would not have sufficient information to base its decision.
Affected Public: Individuals, businesses or other for–profit institutions, small businesses or organizations.
Frequency: On occasion, annually, semi-annually.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Don Arbuckle, (202) 395–7340.
Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.
Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: August 30, 1994

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–21886 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–CW–F

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held September 29, 1994, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

General Session

1. Opening remarks by the Chairman
2. Presentation of papers and public comments
3. Update on Export Administration Act (EAA) and Bureau of Export Administration (BXA) reorganization
4. Update on Export Administration Regulations (EAR)
5. Update on Export Enforcement issues
6. Presentation on Office of Financial Assets Control (Treasury)

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.
The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.
A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: August 31, 1994.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–21887 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic Development Administration Senior Executive Service (SES) Performance Appraisal System:

John E. Corrigan
Edward G. Jeep
Charles E. Oxley
Craig M. Smith
Chester J. Straub, Jr.
Stephen C. Browning

Charles H. McEnerney,

Human Resources Specialist.

[FR Doc. 94–21901 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–BS–M

Economics and Statistics Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economics and Statistics Administration Senior Executive Service (SES) Performance Appraisal System:

O. Bryant Benton
Carol S. Carson
Sally C. Ericsson
Arnold A. Jackson
Frederick T. Knickerbocker
John S. Landefeld
Robert W. Marx
Harry A. Scarr
Paula J. Schneider
Kent Hughes
Katherine K. Wallman

Charles H. McEnerney,

Human Resource Specialist.

[FR Doc. 94–21902 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–BS–M

International Trade Administration

[A-570-001]

Potassium Permanganate From the People's Republic of China; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On July 7, 1994, the Department of Commerce (the Department) received a request from Carus Chemical Company (Carus), the petitioner, that it be permitted to withdraw its request for an administrative review, pursuant to 19 CFR 353.22(a)(5) (1994), of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) for the period January 1, 1992, through December 31, 1992. Although the Department received the request to withdraw after the normal period allowed, the Department is terminating this administrative review in accordance with 19 CFR 353.22(a)(5).

EFFECTIVE DATE: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone number (202) 482–4474.

Background

On January 31, 1984, the Department published in the **Federal Register** (49 FR 3898) the antidumping duty order on potassium permanganate from the PRC. After receiving a timely request for review from Carus, the Department initiated, on March 26, 1993, an administrative review for the period January 1, 1992, through December 31, 1992 (56 FR 6621). On July 7, 1994, Carus requested that it be permitted to withdraw its request for review for this period of review.

SUPPLEMENTARY INFORMATION: In accordance with 19 CFR 353.22(a)(5), the Department may extend the normal 90-day time limit for withdrawal of a request for review if the Department determines it is reasonable to do so. We have determined that it is reasonable to extend the time limit for Carus' request because we have not issued preliminary results of review for this period and because there is no indication on the record that the substantive rights of any party would be impaired by such a decision.

Respondent Zunyi Chemical Factory (Zunyi) has objected to the termination request on the grounds that (1) the Department should not ignore the information Zunyi has already placed on the record for this review, and (2) the request for a 1992 review was a factor in respondent's decision not to challenge the results of the 1990 review, published on May 23, 1994 (59 FR 26625).

It is our position that Zunyi should have been aware, in making its decision with regard to the 1990 review, that the 1992 review was based solely on the petitioner's request, which could possibly be withdrawn pursuant to 19 CFR 353.22(a)(5). Furthermore, neither the statute nor the regulations prohibit the termination of a review in which responses have been received. Zunyi could have, in either case, guaranteed its right to continue this review, by making its own request for review at the proper time. By not making such a request, Zunyi has forfeited its legal ability to compel the Department to continue a review in which the only party still requesting review has now withdrawn that request. Accordingly, it is appropriate to terminate this review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: August 25, 1994.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94–21888 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–DS–M

[A-570-001]

Potassium Permanganate From the People's Republic of China; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On July 7, 1994, the Department of Commerce (the Department) received a request from Carus Chemical Company (Carus), the petitioner, that it be permitted to withdraw its request for an administrative review, pursuant to 19 CFR § 353.22(a)(5) (1994), of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) for the period January 1, 1991 through December 31, 1991. Although the Department received the request to withdraw after the normal period allowed, the Department is terminating this administrative review in accordance with 19 CFR § 353.22(a)(5).

EFFECTIVE DATE: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone number (202) 482–4474.

Background

On January 31, 1984, the Department published in the **Federal Register** (49 FR 3898) the antidumping duty order on potassium permanganate from the PRC. After receiving timely requests for review from Carus and Novachem, Inc. (Novachem), an importer, the Department initiated, on February 24, 1992, an administrative review for the period January 1, 1991 through December 31, 1991 (56 FR 6621). Subsequently, on May 8, 1992, Novachem withdrew its request for review. On July 7, 1994, Carus requested that it be permitted to withdraw its request for review for this period of review.

SUPPLEMENTARY INFORMATION: According to 19 CFR § 353.22(a)(5), the Department may extend the normal 90-day time limit for withdrawal of a request for review if the Department determines it is reasonable to do so. We have determined that it is reasonable to extend the time limit for Carus' request because we have not issued preliminary results of review for this period, and because there is no indication on the record that the substantive rights of any party would be impaired by such a decision.

Respondent Zunyi Chemical Factory (Zunyi) and Novachem have objected to the termination request on the grounds that (1) the Department should not ignore the information Zunyi has already placed on the record for this review, and (2) the request for a 1991 review was a factor in respondent's decision not to challenge the results of the 1990 review, published on May 23, 1994 (59 FR 26625).

It is our position that Zunyi should have been aware, in making its decision with regard to the 1990 review, that the 1991 review was presently based solely on the petitioner's request, which could possibly be withdrawn pursuant to section 19 CFR § 353.22(a)(5).

Furthermore, neither the statute nor the regulations prohibit the termination of a review in which responses have been received. Zunyi could have, in either case, guaranteed its right to continue this review by making its own request for review at the proper time. By not making such a request, Zunyi forfeited its legal ability to compel the Department to continue a review in which the only party still requesting review has now withdrawn that request. Accordingly, it is appropriate to terminate this review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: August 25, 1994.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94–21889 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 920535–4194]

RIN 0693–AA99

Approval of Federal Information Processing Standards Publication 188, Standard Security Label for Information Transfer

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 188, Standard Security Label for Information Transfer.

SUMMARY: On August 21, 1992 and January 28, 1994, notices were published in the **Federal Register** (57 FR 37948 and 59 FR 4031, respectively) that a Federal Information Processing Standard for Standard Security Label for the Government Open Systems Interconnection Profile was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective March 1, 1995.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Noel Nazario, (301) 975–2837, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: August 30, 1994.

Samuel Kramer,

Associate Director.

Federal Information Processing Standard Publication 188

(date)

Announcing A

Standard Security Label for Information Transfer

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Standard: Standard Security Label for Information Transfer.

Category of Standard:! Computer Security, Security Labels.

Explanation: Security labels convey information used by protocol entities to determine how to handle data communicated between open systems. Information on a security label can be used to control access, specify protective measures, and determine additional handling restrictions required by a communications security policy.

This standard defines a security label syntax for information exchanged over data networks and provides label encodings for use at the Application and Network Layers. The syntactic constructs defined in this standard are intended to be used along with semantics provided by the authority establishing the security policy for the protection of the information exchanged. A separate NIST document, referenced in an informative appendix, defines a Computer Security Objects Register (CSOR) that serves as repository for label semantics. The CSOR assigns a unique identifier to each set of interpretation and handling rules. This enables the communicating parties to agree on the semantics for the interpretation of the labels. The separation of the label syntax from its semantics enables a few basic label structures to support multiple security policies.

The label presented here defines security tags that may be combined into tag sets to carry security-related information. Five basic security tag types allow security information to be represented as bit maps, attribute enumerations, attribute range selections, hierarchical security levels, or as user-defined data. Because of inherent differences in layer functionality, the security label defined in this document is expressed both as an abstract label syntax specification for the OSI Application Layer and an encoding optimized for use at the Network Layer.

Approving Authority: Secretary of Commerce.

Maintenance Agency: Computer Systems Laboratory, National Institute of Standards and Technology.

Cross Index:

Federal Information Resources Management Regulations, subpart 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

General Procedures for Registering Computer Security Objects, NISTIR 5308, December 1993.

Security Labels for Open Systems—An Invitational Workshop, NISTIR 4362, June 1990.

Standard Security Label for GOSIP—An Invitational Workshop, NISTIR 4614, June 1991.

Scope: This standard defines syntactic constructs for conveying security label information when Government sensitive but unclassified data is exchanged over computer networks. The syntactic constructs defined in this standard are intended to be used along with semantics provided by the authority establishing security policy for the protection of the information exchanged. NIST has established a Computer Security Objects Register (CSOR) that will serve as repository for label semantics. Informative Appendix A of this standard provides further details on the CSOR.

This standard does not discuss the physical labeling of information or storage media and information displayed on a computer screen or other peripherals. Labeling of information stored in internal memory and storage media (e.g. hard disks, compact disks, magnetic tapes, etc.) is also outside of the scope of this standard. The protection of data in transit and their associated labels along with the binding between the data and the labels is the responsibility of the communications protocols involved in the transfer and therefore not discussed here. Compliance with this standard does not provide assurance of the suitability of an

implementation for the protection of data according to specific security policies. That assessment must be made through the appropriate evaluation and certification processes.

Applicability: This standard applies to U.S. Government communications systems required by agency security policy to label sensitive but unclassified data when exchanged over data networks. Although this standard is intended for use on systems handling unclassified information, it could be adopted by the appropriate authorities for use on systems handling classified information.

Complying implementations shall be capable of transmitting, receiving, and obtaining information from security labels based on the specifications in this document.

Specifications: Federal Information Processing Standard (FIPS 188) Standard Security Label for Information Transfer (affixed).

Implementation Schedule: This standard becomes effective 1 March 1995.

Waiver Procedure: Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Waiver shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletions as the agency is authorized and decides to make under United States Code Section 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 188 (FIPSPUB 188), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 94–21891 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–CN–M

National Telecommunications and Information Administration

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the National Telecommunications and Information Administration Senior Executive Service (SES) Performance Appraisal System:

Carol C. Darr
Michele C. Farquhar
William Gamble
Richard D. Parlow
Charles M. Rush
Neal B. Seitz
William Utlaut
Barbara S. Wellbery
Stephen C. Browning

Charles H. McEnerney,

Human Resources Specialist.

[FR Doc. 94–21903 Filed 9–2–94; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0002]

Clearance Request for Solicitation Mailing List Application (SF 129)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0002).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Solicitation Mailing List Application (SF 129).

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Standard Form 129, Solicitation Mailing List Application, is used by all Federal agencies as an application form for prospective contractors to provide information needed to establish and maintain a list of firms interested in selling to the Government. The information is used to establish lists of firms to be solicited when the products or services they provide are needed by the Government.

B. Annual Reporting Burden

Pubic reporting burden for this collection of information is estimated to average *.58* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, *243,000;* responses per respondent, *4;* total annual responses, *972,000;* preparation hours per response, *.58;* and total response burden hours, *563,760.*

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0002, Solicitation Mailing List Application (SF 129), in all correspondence.

Dated: August 29, 1994.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 94–21755 Filed 9–2–94; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by September 23, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: August 31, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited
Title: National Assessment of Educational Progress (NAEP) 1995 Field Test and 1996 Full Scale Assessment and Background Questionnaires on Mathematics, Science and the Arts
Abstract: The National Assessment of Educational Progress (NAEP) is a congressionally mandated data collection of assessment and background information. Respondents include students in the 4th, 8th and 12th grades, teachers, school administrators, and parents. The 1995/96 assessment will be conducted in the following subjects: mathematics, reading and the arts. Results of the assessments will be linked to the background characteristics of students, their schools, teachers and parents.
Additional Information: Clearance for this information collection is requested for September 23, 1994. An expedited review is necessary as the printing of the field test booklets is scheduled to begin on September 30, 1994. NAEP data are of vital importance to the President, Congress, and the National Education Goals Panel, as well as State and local policy makers.
Frequency: Biennially
Affected Public: Individuals or households
Reporting Burden:
Responses: 39,500
Burden Hours: 40,250
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–21839 Filed 9–2–94; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by September 15, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: August 31, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited
Title: Libraries Data Collection—Federal-State Cooperative System for the Collection of Data from State Library Agencies
Abstract: This survey will be used to provide state and federal policymakers, researchers, and other interested users with descriptive information about state library agencies, to develop a national profile of such agencies, and to help complete the national picture of public library service. The Department will use the information to determine expenditures by state library agencies on adult literacy and lifelong learning.
Additional Information: Clearance for this information collection is requested for September 15, 1994. An expedited review is necessary in order to stay on schedule for a survey mailout date of October 1, 1994 and survey due date of November 15, 1994.
Frequency: Annually
Affected Public: Individuals or households
Reporting Burden:
Responses: 51
Burden Hours: 612
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–21842 Filed 9–2–94; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 6, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: August 31, 1994.

Mary P. Liggett

Acting Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Existing
Title: Performance Report for the Ronald E. McNair Postbaccalaureate Achievement Program
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 68
Burden Hours: 340
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by grantees who are required to submit annual performance reports under the Ronald E. McNair Postbaccalaureate Achievement Program. The Department will use the information to evaluate individual project accomplishments, determine the number of priority points awarded to current grantees during future grant competitions, aid in compliance, enforcement, and analyze program impact data for budget submissions to OMB and congressional hearings.

Office of Postsecondary Education

Type of Review: New
Title: Evaluation Form for the Fulbright-Hays Seminars Abroad Program
Frequency: One Time
Affected Public: Individuals or households
Reporting Burden:
Responses: 125
Burden Hours: 31
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by participants under the Fulbright-Hays Seminars Abroad Program to evaluate the short-term seminars in which they participate that are administered by overseas agencies on behalf of the U.S. Department of Education. The Department will use the information to determine (a) whether or not the administering agencies have the capability to administer the type of intensive seminar the Department requires; (b) the degree to which the agencies provided assistance to participants in the development of their curriculum projects; (c) suggestions on how to improve future seminars; and (d) whether or not a particular agency or agencies should be considered in planning for the immediate future.

[FR Doc. 94–21840 Filed 9–2–94; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of

Management and Budget (OMB) has been requested by September 9, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. 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. to 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: August 31, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited
Title: Fast Response Survey System—Survey on Advanced Telecommunications in U.S. Public Schools
Abstract: The purpose of this survey is to obtain information and the access and uses of advanced telecommunications in public elementary and secondary schools. The data will be used by the Department to begin developing plans to link classrooms to the information superhighway.
Additional Information: The Secretary of Education has been called to testify several times before Congressional Committees concerned with the topic (classroom access to the growing number of on-line resources, classroom network projects and professional development activities). In May he testified before the Senate Committee on Commerce, Science, and Transportation. He is scheduled to testify again before the House Subcommittee on Telecommunications and Finance in September. An expedited review is necessary in order to provide data to the Secretary, Congress, the Federal Communications Commission, and the Department of Commerce National Telecommunications and Administration Office by December, 1994. Clearance for this information collection is requested for September 9, 1994.
Frequency: One time
Affected Public: Individuals or households
Reporting Burden:
Responses: 1,500
Burden Hours: 750
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Office of Educational Research and Improvement

Type of Review: Expedited
Title: Pre-Form Survey of Participants in the 1994 Goals 2000 Teacher Forum
Abstract: This survey will be used to gather information on the activities, knowledge, and perceptions of teachers who will participate in the 1994 Goals 2000 Teacher Forum. The Department will use the data to help plan and design the Teacher Forum for this coming November. It will also provide feedback about the efficacy of the Forum in enhancing teacher participation in education reform at the local level, and enable the Department to evaluate change in teachers' knowledge, activities and perceptions from before and after the Forum.
Additional Information: Clearance for this information collection is requested for September 9, 1994. An expedited review is necessary in order to administer the survey and collect and review the responses before the 1994 Forum.
Frequency: Annually
Affected Public: Individuals or households
Reporting Burden:
Responses: 115
Burden Hours: 38
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–21841 Filed 9–2–94; 8:45 am]
BILLING CODE 4000–01–M

President's Board of Advisors on Historically Black Colleges and Universities; Meeting

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of the initial meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: September 19, 1994, from 9 a.m. to 5 p.m.

ADDRESSES: To be announced at a later date. Call (202) 708–8667 for current information.

FOR FURTHER INFORMATION CONTACT: Catherine W. LeBlanc, Executive Director, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 7th and D Streets, SW., Washington, DC 20202–5120. Telephone: (202) 708–8667.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities is established under Executive Order 12876 of November 1, 1993. The Board is established to advise on the financial stability of Historically Black Colleges and Universities, to issue an annual report to the President on HBCU participation in Federal programs, and to advise the Secretary of Education on increasing the private sector role in strengthening HBCUs.

The meeting of the Board is open to the public. The agenda includes: an orientation, overview of White House Initiative activities, and a report on the status of the State Postsecondary Review Entities.

Records are kept of all Board proceedings, and are available for public inspection at the White House Initiative

on Historically Black Colleges and Universities at 7th and D Streets SW, Room 3682, Washington, DC 20202, from the hours of 8:30 a.m. to 5 p.m.

Dated: August 31, 1994.

Marianne Phelps,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 94–21921 Filed 9–1–94; 9:48 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Albuquerque Operations Office; Noncompetitive Financial Assistance Award to the State of Texas

AGENCY: Department of Energy, Albuquerque Operations Office.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The Department of Energy (DOE), Albuquerque Operations Office (AL) in accordance with 10 CFR 600.7(b)(2), gives notice of its plans for award of a cooperative agreement to the State of Texas, on a noncompetitive basis, in support of the establishment and management of a National Resource Center for Plutonium (the Center) to be located in the Amarillo, Texas area. The Center is envisioned to be the source for primarily plutonium-related information for the public and especially for the State of Texas. The Center will support the collection, review and interpretation of technical literature, sponsoring and coordinating additional studies and research, engaging in the study of the environmental effects of plutonium, high explosives and other nuclear or hazardous materials generated from nuclear weapons dismantlement, and characterization of local environmental transport and accumulation of plutonium, and public outreach. It will not engage in physical, chemical, or metallurgical studies of plutonium.

FOR FURTHER INFORMATION CONTACT: Juan Williams, Contract Specialist, U.S. Department of Energy, Albuquerque Operations Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185–5400. Telephone: (505) 845–5865.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined that restriction to the State of Texas is appropriate based on the following information:

The participant, the State of Texas, is the unit of government having the direct responsibility and appropriate jurisdiction to protect the welfare, health and safety of its citizens. No other entity, other than the Federal Government, has the direct responsibility to protect the environment and the health, safety and welfare of the citizens of the State of Texas. Therefore, DOE in the public interest will make a noncompetitive financial assistance award to the State of Texas. Further, due to the fact that (1) Texas has the primary and direct responsibility for the health, welfare, and safety of its citizens, and (2) the Pantex Plant, is conducting nuclear weapons dismantlement, which is an activity within Texas' jurisdiction, DOE is therefore precluded from providing support to another entity. This award will be in the best interests of the Government and the public and is considered vital and timely with respect to the continuing mission of nuclear weapons dismantlement at Pantex.

Accordingly, based upon the above, the award of a cooperative agreement to the State of Texas, on a noncompetitive basis, appropriately satisfies the criteria specified in Paragraphs (C) and (H) of 10 CFR 600.7(b)(2)(i). DOE has determined that: (1) The applicant is a unit of government and the activity supported is related to performance of a governmental function within the subject jurisdiction; and, (2) such award is in the public interest.

This initiative was contained in the President's FY 95 amended Congressional budget request and will be supported by Surplus Fissile Materials Control and Disposition funds. The cooperative agreement will be awarded for an initial period of five (5) years. At maturity, the total annual budget is estimated to be approximately $10 million for the Center. The cooperative agreement will be administered by the Albuquerque Operations Office. This agreement will not become effective for at least 14 days after publication of this notice to allow for public comment.

Issued in Albuquerque, NM on August 24, 1994.

Richard A. Marquez,

Assistant Manager for Management and Administration, Albuquerque Operations Office.

[FR Doc. 94–21876 Filed 9–2–94; 8:45 am]

BILLING CODE 6450–01–M

DOE Response to Recommendation 94–1, Improved Schedule for Remediation in the Defense Nuclear Complex of the Defense Nuclear Facilities Safety Board

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: Section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b) requires the Department of Energy to publish its response to Defense Nuclear Facility Safety Board recommendations for notice and public comment. The Defense Nuclear Facilities Safety Board published Recommendation 94–1, concerning an improved schedule for remediation in the defense nuclear facilities complex, in the **Federal Register** on June 3, 1994 (59 FR 28848).

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before October 6, 1994.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Grumbly, Assistant Secretary for Environmental Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on August 24, 1994.

James M. Ahlgrimm,

Acting Departmental Representative to the Defense Nuclear Facilities Safety Board.

The Honorable John T. Conway
Chairman
Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

Dear Mr. Chairman: This letter responds to your Recommendation 91–1, Improved Schedule for Remediation in the Defense Nuclear Complex, of May 26, 1994. The Department shares the concerns outlined in your letter, and we agree that there is a need to take timely action to place the substances formerly used in the manufacture of nuclear weapons into a state suitable for safe interim storage. There are significant activities underway, such as the Plutonium Vulnerability Study and the associated Management Plan to address many of the hazards cited in your Recommendation.

Your Recommendation calls for an integrated program plan to be formulated on a high priority basis to convert, within two to three years, the specific materials cited in the Recommendation to forms or conditions suitable for safe interim storage. The Department commits to develop a plan that will include the following initiatives:

a systems engineering approach to maximize the integration of facilities and capabilities while minimizing worker exposures and additional waste;

research programs required to fill any gaps in the technological information base;

identification of those facilities that may be needed for future handling and treatment of these materials;

ensuring operational readiness in accordance with DOE Order 5480.31.

This integrated program plan will develop detailed schedules for specific activities cited in the Recommendation and will include critical path activities; decision points, and resource considerations necessary for successful program initiation and completions. The plan will be utilized as a tool to assist in determining the appropriate course of action to expeditiously convert the material discussed in specific recommendations 3 through 7 to a form or condition more suitable for interim storage.

The Department accepts Recommendation 94–1 conditioned upon the understanding that complete conversion of all materials cited in your Recommendation may not be accomplished within the time periods described in the Recommendation. We look forward to working closely with you and your staff to develop a responsive Implementation Plan and activity schedules that meet our common goals. The Implementation Plan will be forwarded to you in accordance with 42 U.S.C. 2286d.

If you have further questions, please contact me, or have a member of your staff contact Mr. Thomas Grumbly, Assistant Secretary for Environmental Management, at (202) 586–7710.

Sincerely,

Hazel R. O'Leary.

[FR Doc. 94–21875 Filed 9–2–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. EL94–87–000 and QF91–40–005]

Medina Power Company; Renotice of Filing[1]

August 30, 1994.

Take notice that on August 12, 1994, the Niagara Mohawk Power Corporation (Niagara) filed with the Federal Energy Regulatory Commission (Commission) a petition for declaratory order that Medina Power Company (Medina) is not in compliance with operating and efficiency standards for qualifying facilities.

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 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211 and CFR 385.214). All such motions or protests should be filed on or before September 16, 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. Medina Power Company is directed to file an answer to Niagara's petition on or before September 29, 1994. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21809 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[1] This notice replaces the notice issued in error on August 25, 1994.

[Docket No. RP94–373–000]

Algonquin Gas Transmission Company; Notice of Compliance Filing

August 30, 1994.

Take notice that on August 26, 1994, Algonquin Gas Transmission Company (Algonquin) submitted certain data in compliance with the Commission's order in Algonquin Gas Transmission Co., 62 FERC 61,132 at 61,852 (1993). Algonquin states that the filing is submitted to satisfy its one year reporting obligation under Order No. 636. (Algonquin also proposed certain non-rate tariff modifications[1] pursuant to section 4 of the Natural Gas Act.) The data report concerns Algonquin's use of upstream services retained for operational purposes subsequent to the restructuring of Algonquin's services pursuant to Order No. 636.

Algonquin states that copies of its compliance filing were mailed to Algonquin's customers, interested state commissions, and all parties to Docket No. RS92–28–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Procedure and Regulations. All such motions or protests should be filed on or before September 22, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21806 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[1] The tariff revisions are being noticed separately.

[Docket No. RP93–14–020]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

August 30, 1994.

Take notice that on August 25, 1994, Algonquin Gas Transmission Company (Algonquin) submitted for filing as part of its FERC Gas Tariff the revised tariff sheets listed in Attachment No. 1 to the filing, with a proposed effective date October 1, 1994.

Algonquin also submitted the revised rate sheets listed in Attachment No. 2 to the filing with the effective dates specified in the attachment.

Algonquin states that the purpose of this filing is to implement the March 1, 1994, Stipulation and Agreement (the S&A) in the above captioned dockets that was approved by the Commission on July 8, 1994. Algonquin also states that this filing constitutes its notice to the Commission of Algonquin's waiver of the requirement, contained in Article VIII, Section 1 of the S&A, that the Commission's order approving the S&A shall have become final and nonappealable before the S&A may become effective. Algonquin specifies that the effective date of the S&A is September 1, 1994.

Algonquin states that copies of its filing were mailed to all customers, interested State Commissions, and all parties to the above captioned dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before September 7, 1994. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21803 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–368–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

August 30, 1994.

Take notice that on August 25, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet, with a proposed effective date of September 24, 1994:

First Revised Sheet No. 709

Algonquin proposes, in lieu of listing a specific telephone number for accessing the LINK system, to provide that Algonquin notify all LINK subscribers of the appropriate telephone number in advance of any changes.

Algonquin notes that copies of this filing were served upon each customer 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, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 7, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21804 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–369–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

August 30, 1994.

Take notice that on August 26, 1994, Algonquin Gas Transmission Company (Algonquin) submitted certain revised tariff to correct certain typographical errors and ambiguities in its tariff, which Algonquin has identified in its first year of restructured operations under Order No. 636. (Algonquin also filed an accompanying report [1] of its first year of restructured operations pursuant to Order No. 636 compliance with the Commission's order in Algonquin Gas Transmission Co., 62 FERC 61,132 at 61,852 (1993).)

Algonquin has submitted for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of November 1, 1994:

Third Revised Sheet No. 20
Fifteenth Revised Sheet No. 20A
Third Revised Sheet No. 40
Second Revised Sheet No. 103
Second Revised Sheet No. 104
Second Revised Sheet No. 105
Second Revised Sheet No. 118
Second Revised Sheet No. 119
Second Revised Sheet No. 120
Second Revised Sheet No. 125
Second Revised Sheet No. 137
Second Revised Sheet No. 139
Second Revised Sheet No. 140
Second Revised Sheet No. 143
Second Revised Sheet No. 154
Second Revised Sheet No. 155
Second Revised Sheet No. 156
Second Revised Sheet No. 157
First Revised Sheet No. 171
First Revised Sheet No. 172
First Revised Sheet No. 184
First Revised Sheet No. 194
First Revised Sheet No. 204
First Revised Sheet No. 211
First Revised Sheet No. 223
First Revised Sheet No. 233
First Revised Sheet No. 600
Second Revised Sheet No. 603
First Revised Sheet No. 614
First Revised Sheet No. 615
First Revised Sheet No. 618
First Revised Sheet No. 632
First Revised Sheet No. 640
First Revised Sheet No. 653
First Revised Sheet No. 661
Second Revised Sheet No. 664
First Revised Sheet No. 678
First Revised Sheet No. 679
First Revised Sheet No. 680
Original Sheet No. 680A
First Revised Sheet No. 686
First Revised Sheet No. 687
Third Revised Sheet No. 688
Third Revised Sheet No. 689
First Revised Sheet No. 689A
Fourth Revised Sheet No. 705
Second Revised Sheet No. 709
Second Revised Sheet No. 712
First Revised Sheet No. 800
First Revised Sheet No. 810
First Revised Sheet No. 812
First Revised Sheet No. 820
First Revised Sheet No. 822
First Revised Sheet No. 830
First Revised Sheet No. 832
First Revised Sheet No. 840
First Revised Sheet No. 841

Algonquin states that the purpose of the revised tariff sheets is to correct certain typographic errors, to eliminate certain ambiguities, and to effect minor modifications to the revised tariff approved in 1993 in connection with Algonquin's Order No. 636 restructuring. Algonquin states that the proposed tariff revisions have no impact on Algonquin's rates or revenues.

Algonquin states that copies of its tariff filing were mailed to Algonquin's customers, interested state commissions, and all parties to Docket No. RS92–28–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Procedure and Regulations. All such motions or protests should be filed on or before September 7, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21805 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[1] The report on the first year of restructured operations is being noticed separately.

[Docket No. CP94–59–002]

Cove Point LNG Limited Partnership; Amendment

August 29, 1994.

Take notice that on August 25, 1994, Cove Point LNG Limited Partnership (Cove Point LNG), 2100 Cove Point Road, Lusby, Maryland 20657, filed, in Docket No. CP94–59–002, an amendment to its certificate application filed in Docket Nos. CP94–59–000 and 001. Cover Point LNG filed this amendment in response to the Commission's July 27, 1994, Preliminary Determination (PD) concerning Cove Point LNG's proposal to acquire and reactivate the mothballed LNG facility at Cove Point, Maryland. The Cove Point LNG facility is presently owned by Columbia LNG Corporation. The PD rejected Cove Point LNG's proposal to charge market-based rates for its proposed peaking services and suggested that Cove Point LNG file another rate proposal. This filing in Docket No. CP94–50–002 is Cove Point LNG's new rate proposal and its response to certain tariff issues raised in the PD. Cove Point LNG now proposes to charge minimum and maximum rates for its peaking services with the maximum rates capped at amounts

based on the net present value and levelized cost of competing services over ten- and twenty-year terms. Cove Point LNG requests that the Commission act on its proposal and issue a final certificate on or before September 30, 1994. Cove Point LNG's proposal is more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said Amendment should on or before September 6, 1994, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) 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 the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules; provided however, that any person that has filed a previous motion to intervene in these proceedings need not file a new intervention.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–21858 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–370–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 30, 1994.

Take notice that on August 26, 1994, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 38, with an effective date of September 1, 1994, and First Revised Sheet No. 40, with an effective date of October 1, 1994.

MRT states that the purpose of this filing is to make minor corrections to MRT's Rate Schedule FSS and incorporate additional flexibility in MRT's storage injection and withdrawal schedules.

First, MRT proposes to delay by one day the commencement of its injection and withdrawal seasons to eliminate the overlap of the seasons. Second, MRT proposes to increase the end of the month maximum inventory levels set forth in its injection schedule. Third, MRT proposes to decrease the minimum monthly injection required for the month of October. Fourth, MRT proposes to revise its calculation of the minimum and maximum monthly withdrawal quantities set forth in its withdrawal schedule, based on each customer's maximum inventory.

MRT states that a copy of this filing has been mailed to each of its jurisdictional customers, and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Procedure and Regulations. All such motions or protests should be filed on or before September 7, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21807 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–285–000]

Williston Basin Interstate Pipeline Company; Notice of Technical Conference

August 30, 1994.

In the Commission's order issued July 6, 1994,[1] in the above-captioned proceeding, the Commission held that the filing raises certain issues for which a technical conference is to be convened. These issues are (1) how the allocation of the nomination variance charges among shippers will work; (2) why Williston Basin Interstate Pipeline Co. believes to aggregate transportation receipts and/or deliveries on a total points basis relaxes its nomination variance charges; and (3) the effect its proposal will have on customers.

The conference to address the issues has been scheduled for Monday, September 19, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94–21808 Filed 9–2–94; 8:45 am]

BILLING CODE 6717–01–M

[1] Williston Basin Interstate Pipeline Co., 68 FERC ¶ 61,028 (1994).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5066–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the record keeping requirements and its expected cost and burden. Where appropriate, it includes the provisions required to meet the record keeping and retention requirements.

DATES: Comments must be submitted on or before October 6, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or a copy of this ICR, contact Sandy Farmer at (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Diesel Fuel Quality Regulation Transfer Document Record Keeping Requirement (EPA ICR No. 1718.01). This ICR requests approval of a new collection.

Abstract: On July 14, 1994 a revision to the Regulations of Fuels and Fuel Additives for Highway Diesel Fuel was published in the **Federal Register** (59 FR 35854). The interim final rule continues to regulate on-highway diesel fuel, as published in the **Federal Register** on August 21, 1990 (54 FR 35276), by requiring that the fuel meet sulfur content standards, as well as standards for cetane index or in the alternative for aromatic content. This revision, which goes into effect on October 1, 1994, changes the language regarding the fuel dye color from blue to red. The revision requires that the fuel be free of visible evidence of the

dye Solvent Red 164 except as provided for tax exempt use in accordance with section 4082 of the Internal Revenue Code. There will be a small portion of diesel fuel for use in motor vehicles that is both tax-exempt, requiring it to be dyed red, and is also required to meet the on highway low sulfur diesel fuel requirements, requiring it to be free of the visible evidence of the red dye. This overlap was addressed in EPA's July 14, 1994 revision to the fuel quality standards by allowing the tax-exempt low sulfur fuel to contain visible evidence of the red dye provided that the fuel meets the fuel quality standards and the shipments are accompanied by transfer documents indicating that the fuel is for tax-exempt use only and meets the EPA diesel fuel quality standards.

Product transfer documents are common standard industry papers that are produced by the transferor and accompany each shipment to the transferee. This regulation will require the transferor of the fuel to provide the transferee with documents to accompany each shipment of low sulfur fuel that has been dyed red. The documents are required to contain language, or other such indication, verifying that the red dyed fuel meets the applicable fuel quality standards and is for tax-exempt use. Copies of the documents must be retained in the possession of the transferor and the transferee (shipment recipient) for a period of five years after the date of transfer. EPA will only request documentation from the affected parties during inspections or other enforcement activities. EPA does not require that these documents be routinely sent to the Agency for collection and review. EPA will use the documents to assist in enforcement of the regulations. The documentation will assist the agency in ascertaining how to proceed when violations are found and what party may be liable for enforcement action.

In summary, any party, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers, or wholesale purchaser consumers that use, or are the transferor or transferee of tax-exempt red dyed diesel fuel for use in on-highway vehicles, must provide documents verifying that the fuel meets the applicable fuel quality standards.

Burden Statement: The public reporting burden for this recording requirement is estimated to average .02 hours per occurrence, including time for reviewing the required document, and filing and retaining the required documents.

Estimated Number of Respondents: 4366.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100 hours.

Frequency of Collection: The documents will not be routinely collected by the Agency. The documents must be retained by the transferor and the transferee for a period of five years after the date of transfer and must be made available to the Administrator or an Agency official upon request.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: August 29, 1994.

Rick Westlund,

Acting Director, Regulatory Management Division.

[FR Doc. 94–21896 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5065–9]

Gulf of Mexico Program Management Committee Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Meeting of the Management Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Management Committee will hold a meeting at the Omni Royal Orleans Hotel, 621 St. Louis Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Management Committee of the Gulf of Mexico Program will be held September 26–27, 1994, at the Omni Royal Orleans Hotel, 621 St. Louis Street, New Orleans, LA. The committee will meet from 1:00 to 4:30 p.m. on September 26 and from 8:30 a.m. to 12 p.m. on September 27. Agenda items will include: Federal Summit Meeting Report; Business and Industry ad hoc Committee Report; FY95 Project Ranking Criteria; Activity Status Reports; and Recognition and Introduction of Issue Committee Co-Chairs.

The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 94–21897 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5065–8]

National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a two-day meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues, and this meeting is being held to discuss NACEPT's agenda for the coming year. The Administrator has asked NACEPT to concentrate on ecosystem management and how long-term ecological, economic, and social needs can be integrated to achieve a place-driven approach to environmental management.

Three new NACEPT standing committees will be formed to examine different aspects of ecosystem management.

- One will evaluate the opportunities to re-orient existing statutory and regulatory authorities to integrate place-driven environmental management into the Agency's decision-making process. Specific areas this committee will investigate include enforcement and compliance programs, and financial and technical assistance mechanisms.
- Another committee will examine the role and use of data and information in ecosystem management strategies. Some of the issues the committee will evaluate include data needs, data accessibility, and opportunities for partnerships and data sharing with public and private sector organizations.
- The third committee will examine issues associated with harmonizing economic activity and ecosystem management, and will focus on the economic, social, and political factors needed to achieve sustainable economies.

NACEPT comprises a representative cross-section of EPA's partners and constituents, but to gain additional

insights and perspectives from all interested parties as these committees begin their work, time has been allotted during the meeting for oral comments from the public. Any member of the public wishing to present oral comments on any of these issues can schedule an appointment by contacting Abby Pirnie at the address and telephone numbers listed below. Due to time constraints, oral presentations will be strictly held to five minutes and slots are limited. Available time slots will be allocated on a first-come, first-served basis to those scheduling a presentation in advance. Written comments will be accepted at any time prior to the meeting.

DATES: The two-day public meeting will be held on Tuesday, September 20, 1994, from 9 a.m. to 5 p.m. and on Wednesday, September 21, 1994 from 8:30 a.m. to 1:00 p.m. On both days the meeting will be held at the Ramada Hotel Old Town, 901 North Fairfax Street, Alexandria, Virginia.

ADDRESSES: Written comments should be sent to: Abby J. Pirnie, Director, Office of Cooperative Environmental Management, U.S. EPA 1601, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Abby J. Pirnie, Designated Federal Official, Direct line (202) 260–8079, Secretary's line (202) 260–7567.

Dated: August 30, 1994.

Abby J. Pirnie,

Designated Federal Official.

[FR Doc. 94–21898 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5065–5]

Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Baker Commodities, Inc. and Opportunity To Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment and proposed Consent Agreement for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Baker Commodities, Inc., located at 4020 Bandini Boulevard, Los Angeles, California; EPA Docket No. CWA–IX–FY94–33; filed on August 26, 1994, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $36,500 for failure to comply with the "General Pretreatment Regulations for Existing and New Sources of Water Pollution" for all non-domestic sources which introduce pollutants into POTWs (40 CFR 403). EPA and Baker Commodities, Inc. have agreed to a proposed Consent Agreement in which Baker Commodities, Inc. shall pay a civil penalty of $36,500.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: August 18, 1994.

Alexis Strauss,

Acting Director, Water Management Division.

[FR Doc. 94–21899 Filed 9–2–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 24, 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) 418–0214. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0444

Title: Station Construction/Operational Status Inquiry

Form Number: FCC Form 800–A

Action: Revision to a currently approved collection

Respondents: Individuals or households and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 11,500 responses; 1 hour average burden per response; 11,500 hours total annual burden

Needs and Uses: Licensees are required to provide information to verify that a station has been placed into operation and to notify the Commission of the actual number of mobile units placed in operation after license grant. This form has been revised to incorporate data previously collected on FCC Form 6027–H. The FCC Form 6027–H will be cancelled after OMB review and approval and upon implementation of the revised FCC Form 800–A. The data is used by Commission staff to determine whether the licensee is entitled to their authorization to operate. From this data, the Commission is able to determine full capacity channel loading, making frequencies available

for assignment and modifying or cancelling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–21846 Filed 9–2–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

The Bank of New York Company, Inc.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 94-16672) published on page 35347 of the issue for Monday, July 11, 1994.

Under the Federal Reserve Bank of New York heading, the entry for The Bank of New York Company, New York, New York, et al. is revised to read as follows:

1. The Bank of New York Company, Inc., New York, New York; BayBanks, Inc., Boston, Massachusetts; The Chase Manhattan Corporation, New York, New York; Chemical Banking Corporation, New York, New York; Citicorp, New York, New York; Fleet Financial Group, Inc., Providence, Rhode Island; HSBC Holdings PLC, London, England; HSBC Holdings BV, The Netherlands; Marine Midland Banks, Inc., Buffalo, New York; Banco de Santander, S.A., Madrid, Spain; The Bank of Boston Corporation, Boston, Massachusetts; First Fidelity Bancorporation, Lawrenceville, New Jersey; Shawmut National Corporation, Hartford, Connecticut; National Westminster Bank PLC, London, England; and NatWest Holdings, Inc., New York, New York (collectively, Applicants), have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) to engage through InfiNet Payment Services, Inc., Hackensack, New Jersey (Company), in data processing and related nonbanking activities. Company will be formed through the merger of NENI Corporation, which operates a retail electronic funds transfer (EFT) network under the tradename Yankee 24, and The New York Switch Corporation, which operates the NYCE EFT network under various tradenames.

In particular, Applicants propose to engage through Company in operating a retail EFT network, including the provision of automated teller machine (ATM) services that will permit customers to make withdrawals, obtain cash advances from lines of credit and credit card accounts, make deposit account inquiries, make transfers between accounts, and make deposits to the extent permitted by applicable law. These ATM services also would include the processing and transmission of data for bank participants in the network in connection with financial products offered to customers of such participants that would allow those customers to transfer funds, by "sweep" arrangements or otherwise, among their deposit accounts at the bank or other securities accounts maintained with affiliated or unaffiliated mutual fund companies or securities brokers. Applicants also propose to engage in various additional activities through Company, including the following:

(1) point of sale (POS) services that will permit customers to use their ATM cards to purchase goods and services;

(2) point of banking (POB) services that will permit customers to conduct transactions similar to those available at ATM terminals, but with the help of a third party;

(3) scrip services, in which a customer receives a voucher (scrip) that is redeemable for cash at a retail register;

(4) gateway services, by which Company will provide routing of transaction requests between Company's network and other EFT networks for participants in Company's network;

(5) group purchasing, in which Company will purchase EFT-related supplies, such as signage, statement stuffers, and terminals, for the benefit of the financial institution participants in Company's network;

(6) ownership of ATM terminals to the extent permitted by applicable state and federal law;

(7) terminal driving services, such as routine database management and maintenance, problem resolution, telecommunications, help desk services, hardware maintenance, and currency provision;

(8) card production and issuance, including ordering and embossing cards, establishing cardholder records, and assigning personal identification numbers;

(9) electronic benefit transfer (EBT) services, in which recipients of government benefits such as food stamps and other recurring types of government transfer payments could access their benefits at ATM and POS machines through use of a card issued by a government agency;

(10) home banking and bill payment services, in which customers could use devices such as the telephone, personal computer, or interactive cable television to conduct a variety of banking transactions such as transferring money between accounts, opening and closing accounts, and paying bills, as well as accessing banking, financial and economic databases from the home or office;

(11) providing certain additional services not generally available at ATM machines, such as printing full account statements and dispensing travelers checks and postage stamps;

(12) providing services in connection with stored value cards, including farecards used by public transportation systems, which are capable of having value assigned to them by use of a magnetic strip or computer chip;

(13) check verification services for retailers;

(14) purchasing and reselling or renting electronic equipment used to perform EFT services; and

(15) electronic data capture and electronic data interchange services, in which merchants are provided with information relating to inventory and the buying patterns of customers.

Applicants propose to engage in these activities worldwide. In this regard, Applicants propose to permit foreign bank affiliates of domestic banking participants in the network, as well as other foreign banks, to participate in the network.

Closely Related to Banking Standard

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto...." In determining whether a proposed activity is closely related to banking for purposes of the BHC Act, the Board considers, *inter alia*, the matters set forth in *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975). These considerations are (1) whether banks generally have in fact provided the proposed services, (2) whether banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed services, and (3) whether banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. *See* 516 F.2d at 1237. In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling

banks. *Board Statement Regarding Regulation Y*, 49 *Federal Register* 806 (1984).

Applicants maintain that the Board has previously determined that the majority of the proposed activities are closely related to banking within the meaning of the BHC Act. Specifically, Applicants maintain that the proposed ATM services; POS services; gateway services; terminal driving services; card production and issuance services; home banking and bill payment services; group purchasing activities; EBT services; POB services; electronic data capture and interchange services; scrip services; terminal ownership; and terminal sale, rental, and maintenance services are data processing and transmission activities that the Board has determined by regulation to be closely related to banking. *See* 12 CFR 225.25(b)(7). *See also Banc One Corporation, et al.*, 79 Federal Reserve Bulletin 1158 (1993) *(Banc One)*; *BayBanks, Inc., et al.*, 79 Federal Reserve Bulletin 547 (1993); *Banc One Corporation, et al.*, 79 Federal Reserve Bulletin 156-57 (1993); *BankAmerica Corporation*, 78 Federal Reserve Bulletin 299 (1992). Applicants further maintain that the Board also has previously determined by regulation that the issuance and sale of travelers checks, and the proposed check verification services, are closely related to banking. *See* 12 CFR 225.25(b)(12) and (b)(22). In addition, Applicants maintain that the Board has previously determined by order that the proposed stored value card services are closely related to banking within the meaning of the BHC Act. *See Banc One, supra.* Applicants propose to conduct the foregoing activities in accordance with the limitations set forth in Regulation Y and the Board's prior orders.

Applicants also maintain that dispensing stamps and full statement printing are activities closely related to banking because banks conduct these activities. In this regard, Applicants state that national banks may operate postal substations pursuant to rulings issued by the Office of the Comptroller of the Currency. *See* 12 CFR 7.7482. Applicants further state that banks are required to deliver periodic account statements to customers under regulations issued by the Board. *See* 12 CFR 205.9 and 230.6. In addition, Applicants maintain that the proposed farecard activities are closely related to banking because farecards are a form of stored value card and serve as a medium of exchange.

Proper Incident to Banking Standard

In order to approve the proposal, the Board also must determine that the proposed activities to be conducted by Company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8).

Applicants believe that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Applicants maintain that the proposal will enhance customer convenience and efficiency. In addition, Applicants state that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application, and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 26, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors, the Federal Reserve Bank of New York, the Federal Reserve Bank of Boston, or the Federal Reserve Bank of Philadelphia.

Board of Governors of the Federal Reserve System, effective August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-21819 Filed 9-2-94; 8:45 am]

BILLING CODE 6210-01-F

Citizens 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 September 27, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Citizens Bancshares, Inc., Salineville, Ohio; to merge with Unity Bancorp, Inc., New Waterford, Ohio, and thereby indirectly acquire The New Waterford Bank, New Waterford, Ohio.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Mercantile Bankshares Corporation, Baltimore, Maryland; to merge with Fredericksburg National Bancorp, Inc., Fredericksburg, Virginia, and thereby indirectly acquire The National Bank of Fredericksburg, Fredericksburg, Virginia.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Mid-Illinois Bancshares, Inc., Mattoon, Illinois; to acquire 100 percent of the voting shares of Heartland Savings Bank, Mattoon, Illinois the successor by charter conversion to Heartland Federal Savings and Loan Association, Mattoon, Illinois.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Chambers Bancshares, Inc., Danville, Arkansas; to acquire at least 99.41 percent of the voting shares of Arkansas Valley Bank, Dardanelle, Arkansas.

1. First United Bancshares, Inc., El Dorado, Arkansas; to acquire 100 percent of the voting shares of First United of Texas, Inc., Texarkana, Texas, and thereby indirectly acquire FirstBank, Texarkana, Texas. In connection with this application, First United of Texas, Inc., has applied to become a bank holding company by acquiring 100 percent of the voting shares of FirstBank, Texarkana.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of American Republic Bancshares, Inc., Belen, New Mexico, and thereby indirectly acquire First National Bank of Belen, Belen, New Mexico.

Board of Governors of the Federal Reserve System, August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21820 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

First Citizens 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 September 30, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Citizens BancShares, Inc., Raleigh, North Carolina; to acquire 100 percent of the voting shares of Pace American Bank, Lawrenceville, Virginia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Franklin Bancorp, Inc., Minneapolis, Minnesota; to merge with Michael Bancorporation, Inc., St. Paul, Minnesota, and thereby indirectly acquire Meridian National Bank, St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, August 30, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21848 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

N.S. Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. N.S. Bancorp, Inc., Chicago, Illinois; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for these activities is Illinois.

Board of Governors of the Federal Reserve System, August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21823 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

N.S. Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 27, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. N.S. Bancorp, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of Northwestern Savings Bank, Chicago, Illinois (formerly Northwestern Savings and Loan Association).

Applicant also has applied to acquire Firstfed Bancshares, Inc., Des Plaines, Illinois, and thereby indirectly acquire First Federal for Savings, Des Plaines, Illinois, and engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Applicant also has applied to engage in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for these activities is the State of Illinois.

Board of Governors of the Federal Reserve System, August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21822 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

Provident Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 27, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Provident Bancorp, Inc., Cincinnati, Ohio; to acquire 50 percent interest in West Shell Mortgage Company, Cincinnati, Ohio, and thereby engage in the mortgage loan origination business, pursuant to §225.25(b)(1) of the Board's Regulation Y. This activity will be conducted throughout the United States.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. First Interstate Bancorp, Los Angeles, California; to become a voting member of the Star System, Inc., a California nonprofit mutual benefit corporation, that provides data transmission services in the form of an electronic fund transfer system, and thereby engage in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y. Comments on this application should be received by September 19, 1994.

Board of Governors of the Federal Reserve System, August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21824 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

Richard J. Foust, 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 September 22, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Richard J. Foust, Manchester, Iowa, Robert L. Foust, Dubuque, Iowa, and Raymond J. Schirmer, Detroit Lakes, Minnesota; to acquire 100 percent of the voting shares of Munter Agency, Inc., Strawberry Point, Iowa, and thereby indirectly acquire Union Bank and Trust Company, Strawberry Point, Iowa.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Jack William Young, Dallas, Texas; to acquire 13.36 percent; Myrna Quartz Young, Dallas, Texas, to acquire an additional 5.16 percent, for a total of 13.45 percent; and Lancer Partners, Ltd., Dallas, Texas, to acquire 4.82 percent of the voting shares of UB&T Holding Company, Abilene, Texas, and thereby indirectly acquire United Bank & Trust, Abilene, Texas.

Board of Governors of the Federal Reserve System, August 29, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–21821 Filed 9–2–94; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

James C. Cleveland Federal Building Courthouse Annex; Concord, NH; Environmental Assessment/FONSI

This notice serves to inform the public of the availability of the Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI) prepared by the U.S. General Services Administration for the proposed construction of an annex to the James C. Cleveland Federal Building Courthouse in Concord, New Hampshire. Comments on the proposed action may be submitted to: Mr. Ralph Scalise, Planning Staff, Public Buildings Service, General Services Administration, 10 Causeway Street, Room 926, Boston, MA 02222. Telephone: (617) 565–5821.

Issued in New York, NY on August 25, 1994.

Karen R. Adler,

Regional Administrator, General Services Administration.

[FR Doc. 94–21792 Filed 9–2–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–499]

Announcement of a Grant to the Institute of Medicine, National Academy of Sciences

Summary

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 1994 for a sole source grant with the Institute of Medicine (IOM), National Academy of Sciences (NAS). The purpose of this program is to consolidate assistance mechanisms used to support the current research activities conducted by IOM, integrate newly initiated assistance activities that are of special interest to CDC, and establish a systematic procedure for managing the unique scientific relationship between CDC and IOM. During FY 1993, CDC initiated three distinct funding mechanisms to support IOM research in the areas of unintended pregnancy, tobacco prevention strategies for youth, and comprehensive school health programs. This grant program would provide for a more uniform management of the various research activities to be funded in the future.

Approximately $365,000 is available in FY 1994 to fund three projects of special interest to CDC:

Project 1. Comprehensive School Health—Approximately $125,000 is available for the continuation of activities to assess the status of existing comprehensive school health programs including K–12 school health education, school health promotion and disease prevention, and school based health care delivery, examine factors predictive of success or failure, and identify and disseminate strategies for wider implementation of comprehensive school health programs.

Project 2. Epidemiological Dimensions of Sexually Transmitted Diseases (STDs) in the United States—Approximately $225,000 is available to support a new study designed to examine the epidemiological dimensions of STDs in the United States and the factors contributing to the rising incidence of infections, assess the effectiveness (including cost-effectiveness) and efficiency of current public health strategies and programs to prevent and control STDs, and develop recommendations for future public health programs, policy development, and research in this area, particularly in the context of health care reform and the trend towards managed care approaches to health services delivery and financing.

Project 3. Study on Preventing Nicotine Addiction in Children and Youths—Approximately $15,000 is available to continue and enhance activities related to Native American youth in an existing study of prevention strategies for children and adolescents relative to tobacco consumption. This study will summarize studies on the biology of addiction, social and behavioral factors involved in initiation, and interventions to prevent dependence and enhance cessation.

It is expected that the award will begin on or about September 30, 1994, for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds. CDC anticipates the availability of additional funds during FY 1995 and subsequent years to support projects of special scientific, programmatic, and/or administrative importance to the mission of CDC. The availability of funds and the focus of such projects are expected to emphasize activities in smoking, nutrition, diabetes, chronic disease control, reproductive health, surveillance and analysis, cancer, and STDs but may include other disease prevention and control areas of special interest to CDC. The availability of funds in subsequent years will be announced in a Program Guidance document accompanying the application kit for each year of the project period. Projects proposed in response to annual Program Guidance documents will be subjected to an Objective Review based on the Evaluation Criteria contained in this Program Announcement.

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 to improve the quality of life. This announcement focuses on all priority areas of Health Promotion and Disease Prevention. (For ordering a copy of "Healthy People 2000," see the section "Where To Obtain Additional Information.")

Authority

This project is authorized under sections 301(a), [42 U.S.C. 241 (a)] and 318(a), [42 U.S.C. 247c (a)] of the Public Health Service Act, as amended, and Executive Order 12832 dated January 19, 1993.

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 the Institute of Medicine (IOM), National Academy of Sciences (NAS) for this project. No other applications are solicited. The program announcement and application kit have been sent to NAS.

The mission of CDC is to promote health and quality of life by preventing and controlling disease and disability. To accomplish this mission, CDC works in partnership with public, private, and voluntary organizations that may be for profit or not for profit groups operating at the State, local, national, and international level to:

1. Monitor the status of diseases.
2. Detect and investigate health problems.

3. Conduct research to enhance prevention.

4. Develop and advocate sound public health policies.

5. Carry out strategies for the prevention of disease.

6. Promote healthy behaviors.

7. Foster safe and healthy environments.

8. Control risk factors leading to the development of disease.

In defining the scientific basis and operational direction for achieving its mission, CDC must frequently obtain independent advice that is inherently acceptable to the American public, of unparalleled objectivity, and unquestionable quality. Occasionally, these conditions can only be met by using a unique relationship and mechanisms established for these purposes by the Legislative and Executive Branches of Government.

NAS was chartered by the U.S. Congress under an Act of Incorporation and approved by the President in 1863. The Act required the Academy to ". . . investigate, examine, experiment, and report upon any subject of science or art, the actual expense of such . . . to be paid from appropriations which may be made for the purpose. . . ." Pursuant to the charter, IOM was established in 1970. NAS and IOM operate in the national interest by assembling the Nation's eminent scholars in a variety of commissions, boards, offices, and committees to furnish advice and guidance of unparalleled objectivity. The findings and recommendations of IOM, NAS, are accorded a degree of acceptance unequaled by any other body of American scholars.

During FY 1993, CDC conducted individual reviews of the technical and scientific merits of two requests for assistance submitted by IOM. Independent funding mechanisms were implemented to support IOM research in the areas of Comprehensive School Health, and Preventing Nicotine Addiction in Children and Youths. These studies, listed as Projects 1. and 3., are now well into their second year and cannot be duplicated by any other organization without significant unnecessary cost to CDC.

In March 1994, the IOM convened a one-day meeting to consider plans for an IOM study of efforts to control STDs in the United States, as well as directions for future public health policy and research in this area. The planning group agreed that such a study could make an important contribution to the STD and public health field and could offer useful guidance in shaping future programs and policies to contain the epidemic of STDs in the United States. The planning group encouraged IOM staff to proceed in further developing plans for this study. As a result, the IOM submitted a proposal for the study, Project 2., to the CDC. The proposed study is consistent with the mission of the CDC. Completion of the study and efficient implementation of its findings and recommendations requires that the work be performed with an unquestionable level of objectivity, that it have immediate credibility, and carry a high degree of public acceptance. IOM is the only body of American scholars fulfilling the requirement for this study.

In accordance with Executive Order 12832, when CDC determines that IOM, because of its unique qualifications, is the only source that can provide the expertise, independence, objectivity, and audience acceptance necessary to meet program requirements, services of the Academy may be obtained on a noncompetitive basis if otherwise in accordance with applicable laws and regulations.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

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

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.

HIV/AIDS Requirements

The recipient must comply with the document entitled *Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions* (June 1992) (a copy is in the application kit). To meet the requirements for a program review panel, the recipient is encouraged to use an existing program review panel, such as the one created by the District of Columbia health department's HIV/AIDS prevention program. If the recipient forms its own program review panel, at least one member must be an employee (or a designated representative) of a State or local health department. The names of the review panel members must be listed on the Assurance of Compliance form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Before funds can be used to develop HIV/AIDS-related materials, determine whether suitable materials are already available at the CDC National AIDS Clearinghouse.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please refer to Announcement Number 499 and contact Locke Thompson, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, Georgia 30305, telephone (404) 842–6508.

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: August 30, 1994.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–21832 Filed 9–2–94; 8:45 am]

BILLING CODE 4163–18–P

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Disability and Long-Term Care Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Disability and Long-Term Care Statistics.

Time and Date: 9 a.m.–5 p.m., September 13, 1994.

Place: Room 303A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will discuss current uses and data issues in nursing home Minimum Data Sets.

An unavoidable administrative delay prevented meeting the 15-day publication requirement.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: August 31, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–21961 Filed 9–2–94; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Medical Classification Systems: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Medical Classification Systems.

Time and Date: 9 a.m.–5 p.m., September 12, 1994.

Place: Room 303A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will discuss: the national Medicare claims accuracy study; the Health Care Financing Administration Validation of Hospital Outpatient Diagnosis and Procedure Codes; the proposed refinement of Medicare Diagnosis-Related Groups incorporating severity measures; the International Classification of Impairments, Disabilities, and Handicaps Revision Process; and the Medicare Transition System.

An unavoidable administrative delay prevented meeting the 15-day publication requirement.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: August 31, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–21962 Filed 9–2–94; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Ambulatory and Hospital Care Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS) Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Ambulatory and Hospital Care Statistics.

Time and date: 9 a.m.–5 p.m., September 19, 1994.

Place: Room 303A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: The subcommittee will discuss encounter data for ambulatory and hospital care, and consider other issues included in its charge.

An unavoidable administrative delay prevented meeting the 15-day publication requirement.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: August 31, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–21960 Filed 9–2–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94E–0221]

Determination of Regulatory Review Period for Purposes of Patent Extension; Aviax®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Aviax® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product Aviax® (semduramicin sodium). Aviax® is indicated for prevention of coccidiosis in broiler chickens. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Aviax® (U.S. Patent No. 4,804,680) from Pfizer Inc. and requested FDA's assistance in

determining the patent's eligibility for patent term restoration. FDA, in a letter dated July 8, 1994, advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of Aviax® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Aviax® is 2,438 days. Of this time, 736 days occurred during the testing phase of the regulatory review period, while 1,702 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective*: July 9, 1987. The applicant claims October 1, 1987, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the date of FDA's official acknowledgement letter assigning a number to the INAD was July 9, 1987, which is considered to be the effective date for the INAD.

2. *The date the application was initially submitted with respect to the animal drug product application under section 512(b) of the Federal Food, Drug, and Cosmetic Act*: July 13, 1989. The applicant claims July 12, 1989, as the date the new animal drug application (NADA) for Aviax® (NADA 140–940) was initially submitted. However, a review of FDA records reveals that the date of FDA's official acknowledgement letter assigning a number to the NADA was July 13, 1989, which is considered to be the initially submitted date for the NADA.

3. *The date the application was approved*: March 10, 1994. FDA has verified the applicant's claim that NADA 140–940 was approved on March 10, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 755 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 7, 1994, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 6, 1995, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 25, 1994.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 94–21789 Filed 9–2–94; 8:45 am]

BILLING CODE 4160–01–F

[FDA 225–94–8001]

Memorandum of Understanding Concerning Cooperation and Information Exchange on Drugs and Biological Products Facilitating Importation Between the Food and Drug Administration and the Russian Federation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Russian Federation. The purpose of the MOU is to exchange information on drugs and biological products and to facilitate the development of the Russian health care sector by establishing in Russia a streamlined registration procedure for U.S. drugs and biological products.

DATES: The MOU became effective February 15, 1994.

FOR FURTHER INFORMATION CONTACT: Phil Budashewitz, Office of Health Affairs (HFY–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4480.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this memorandum of understanding.

Dated: August 26, 1994.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Between the Food and Drug Administration, Public Health Service, Department of Health and Human Services of the United States of America and the Ministry of Health and Medical Industry and the State Committee For Sanitary and Epidemiological Surveillance of the Russian Federation Concerning Cooperation and Information Exchange on Drugs and Biological Products Facilitating Importation

The Food and Drug Administration (FDA) of the United States (U.S.), on the one hand, and the Ministry of Health and Medical Industry and the State Committee for Sanitary and Epidemiological Surveillance of the Russian Federation, on the other hand, hereinafter referred to as the participants,

Building upon the foundation laid by the Memorandum of Understanding signed at Moscow September 23, 1993 under the auspices of the U.S.-Russia Business Development Committee's Subgroup on Medical Equipment, Pharmaceuticals, and Health Services, and in accordance with the Agreement on Cooperation in the Fields of Public Health and Biomedical Research signed on January 14, 1994 by the Government of the United States of America and the Government of the Russian Federation,

Strengthening the bonds of friendship among the participants,

Have reached the following understanding to guide their cooperation:

I.

The goals of the participants in entering into this Memorandum of Understanding are to:

1. Exchange information on drugs and biological products and on requirements applicable to them (including standardization, registration, quality control, and product side effects), including prompt exchange of information on removal of drugs and biological products from the market or restrictions on their use.

2. Facilitate the development of the Russian health care sector by establishing in Russia a streamlined registration procedure for U.S. drugs and biological products that are produced in the United States and that FDA permits to be freely marketed in the United States (see Annex). The Russian Federation participants will use this streamlined procedure for such United States products.

This Memorandum of Understanding provides the procedures needed to implement the agreement in the earlier Memorandum of Understanding, signed on September 23, 1993, that it would be mutually beneficial for the participants to work together to streamline the process for registering and certifying U.S. drugs and biological products for importation into the Russian Federation when these products are permitted by FDA to be freely marketed in

the United States. The effect of the participants' joint endeavors under this Memorandum of Understanding will be to extend to Russian users access to U.S. drugs and biological products of the same safety, effectiveness, and quality available to U.S. users of such products.

II.

This Memorandum of Understanding covers drugs and biological products that are produced in the United States and that are permitted by FDA to be freely marketed in the United States including:

1. Drugs: articles that meet the definition of a drug under the U.S. Federal Food, Drug and Cosmetic Act. This Memorandum of Understanding does not apply to homeopathic drugs.

2. Biological products: products that are regulated as biological products under the U.S. Public Health Service Act.

III.

1. The Russian Federation participants will streamline their registration requirements of those U.S. drugs and biological products that are produced in the United States and that are permitted by FDA to be freely marketed in the United States.

2. For drugs and biological products that are produced in the United States and that FDA permits to be freely marketed in the United States, the Russian Federation participants will accept FDA's decisions and regulations on premarket approval, licensing, monographs, and related matters, as well as FDA's product quality standards and enforcement of manufacturing controls and other requirements.

3. All products that can be defined as a controlled substance or highly addictive can be registered in the Russian Federation only after receiving the approval of the Russian Federation's State Committee on Controlled Substances. Products for which this approval will be necessary will be further explained in an exchange of letters between the participants.

4. This Memorandum of Understanding sets forth, in an Annex, the information that United States firms will have to submit to the appropriate Russian Federation participant concerning drugs and biological products subject to this Memorandum of Understanding, produced in the United States, and permitted by FDA to be freely marketed in the United States, to obtain permission for these products to be freely marketed in the Russian Federation. Where the necessary information listed in the Annex is submitted, the Russian Federation participants will not require, as a condition of importation, the conduct of any additional clinical or analytical review or testing. Registration shall take no more than 90 days after the submission to the appropriate Russian Federation participant of the information required in the Annex and any fee required by the Russian Federation. At the time of the request for registration of vaccines and sera, the Russian Federation has the right to require additional documents which will satisfy the Russian Federation's requirements. Cases in which additional documentation will be necessary will be further explained in an exchange of letters between the participants.

5. Upon request of the Russian Federation participants, FDA will provide access to information on the compliance status of drugs and biological products and manufacturers that are eligible for Russian Federation registration under this Memorandum of Understanding to the extent that the information disclosure is in accordance with U.S. law. FDA also will respond to inquiries from the Russian Federation participants about information submitted under the Annex with respect to such matters as the marketing status of any drug or biological products. The participants will share information about any drug or biological product that presents a significant risk to users.

6. Under this Memorandum of Understanding, the participants will share expertise and provide assistance and information to one another when necessary, subject to the availability of funds. Upon request of FDA, the Russian Federation participants will treat as confidential any information provided to it by FDA that is not public information. Upon request of a Russian Federation participant, FDA will likewise respect the confidentiality of information that the Russian Federation participant provides to FDA, to the extent permitted by law.

7. FDA will provide the Russian Federation participants with up-to-date copies of the laws, regulations, guidelines, and procedures used to help ensure that drugs and biological products are of a level of quality sufficient for the protection of the public health. The Russian Federation participants will provide FDA with up-to-date copies of laws, regulations, guidelines, and procedures concerning the registration of these products imported into the Russian Federation from foreign countries in general and from the United States in particular.

8. The participants will meet periodically to consult with each other in order to promote cooperation and to facilitate the implementation of this Memorandum of Understanding. As the need arises, the participants will develop and agree on specific plans of cooperation.

9. The participants may establish a coordinating committee and one or more technical committees composed of representatives of each participant with expertise in regulation of drugs and biological products, to assist in the implementation of the Memorandum of Understanding.

10. The participants will enter into, within six months of the effective date of this Memorandum of Understanding, additional Memoranda of Understanding concerning certain foods and medical devices imported into the Russian Federation from the United States.

IV.

The following offices are designated as liaison offices for the participants:

A. For FDA:

Special Programs Officer, International Affairs Staff, Office of Health Affairs (HFY–50), (currently Philip M. Budashewitz), Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857, U.S.A.

B. For the Russian Ministry of Health and Medical Industry:

Dr. Alexander I. Machula, Director, Department of the State Committee on Quality Control of Drugs and Medical Devices, Rakhmanovsky per., 3, Moscow, 101431, Russia

C. For the Russian State Committee for Sanitary and Epidemiological Surveillance:

Dr. Anatoly A. Monisov, Deputy Chairman, Vadkovskiy per. 18/20, Moscow, 101474, Russia

This Memorandum of Understanding will enter into force for three years effective upon signature of all participants. It may be extended or amended by mutual written consent. It may be terminated by any participant by a 60-day advance written notice to the other participants.

This Memorandum of Understanding is done in the English and Russian languages, each text being equally authentic.

For the Food and Drug Administration of the United States of America:

By: David A. Kessler, M.D.
Commissioner of Foods and Drugs
Date: January 28, 1994.
By: Mary K. Pendergast
Deputy Commissioner/Senior Advisor to the Commissioner
Date: January 28, 1994.

For the Russian Participants:

By: Dr. Eduard A. Nechayev
Minister of Health and Medical Industry of the Russian Federation
Date: February 15, 1994.
By: Dr. Eugeni N. Beliaev
Chairman, State Committee for Sanitary and Epidemiological Surveillance of the Russian Federation
Date: February 15, 1994.
By: Dr. V. M. Cherepov
Co-Chairman of the Subgroup on Medical Equipment, Pharmaceuticals and Health Services of the Russian-United States Business Development Committee
Date: January 28, 1994.

Annex

The Necessary Information to be Submitted by a U.S. Company to the Russian Federation Authorities for Registration in the Russian Federation of Drugs and Biological Products Which are Produced in the United States and Permitted by the United States Food and Drug Administration (FDA) to be Freely Marketed in the United States

1. The firm will submit a letter stating:
   a. Name of firm
   b. Address
   c. Telephone and facsimile number
   d. Name, title and signature of firm's authorized responsible representative
   e. That the drug or biological product has been produced in the U.S.
2. The firm will provide a copy of the letter that FDA has sent to the firm indicating that the product may be legally marketed in the United States.

3. The firm will provide a copy and Russian translation of the FDA approved product package insert (information and instruction sheet) containing but not limited to the following information:
a. Name: trade, generic, and chemical
b. Description: chemical and pharmacological class
c. Clinical pharmacology/mechanism of action
d. Indications and usage information
e. Contraindications
f. Warnings
g. Precautions
h. Adverse reactions and information on toxicities
i. Information on overdose
j. Dosage and routes of administration
k. How the medical product is supplied, including dosage form and strength
l. Product usage/preparation and storage information
m. Other information as listed in product package insert.
4. The firm will provide a copy of U.S. Pharmacopeia Official Monograph (article), if appropriate.
5. The firm's authorized responsible representative will sign and submit a statement that the firm is in compliance with FDA's Current Good Manufacturing Practice (GMP) regulations.
6. The firm will provide a copy of the most recent FD–483, FDA Notice of Inspectional Observations that is relevant to the drug or biological product for which registration is sought.
7. The firm's authorized responsible representative will sign and submit a statement that all information submitted is truthful, accurate and complete.
8. The firm will submit information on any changes in the above information within 30 days of any change in any of the information referred to in paragraphs 1–5, including any FDA-approved changes in the package insert referred to in paragraph 3.
9. The firm will provide samples of the product in the packaged form in which it is offered for registration.

[FR Doc. 94–21788 Filed 9–2–94; 8:45 am]
BILLING CODE 4160–01–F

Health Care Financing Administration

[BPO–117–GN]

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During FY 1994

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: In the September 30, 1993 issue of the **Federal Register**, we published a general notice with comment period describing the criteria and standards for evaluating intermediary and carrier performance in administering the Medicare program during FY 1994. This notice amends that document to require that contractors certify the accuracy and completeness of the information submitted to HCFA with respect to the evaluation process.

DATES: This notice is effective September 6, 1994 and does not alter the criteria and standards that were effective October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Larry Pratt, (410) 966–7403.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1993, we published in the **Federal Register** (58 FR 51085) the criteria and standards to be used for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program beginning October 1, 1993 under the Contractor Performance Evaluation Program (CPEP). We publish a similar notice annually in accordance with sections 1816(f) and 1842(b) of the Social Security Act. CPEP measures contractor compliance with program requirements; promotes contractor initiatives to improve administrative processes; provides comparable data on customer satisfaction; and serves as a basis of information for contract management activities. The results of the CPEP are considered whenever HCFA enters into, renews, or terminates an intermediary agreement or carrier contract or takes other contract actions.

The 1994 CPEP was structured into three criteria, designed to meet the above objectives. Criterion one, titled Program Requirements, measures contractor performance against basic program requirements. Within this criterion, we identified performance standards which, when measured, evidence how well each contractor is performing the basic requirements of administering the Medicare program. Criterion two, titled Process Improvement, recognizes contractor performance improvement (compared to the previous review period) and contractor efforts to achieve program efficiencies by evaluating and improving the processes with which it administers the Medicare program. Criterion three, titled Customer Satisfaction, assesses the degree to which the contractor's customers are satisfied with the services provided by the contractor in its administration of the Medicare program. We also developed separate criteria and standards that measure only the activities of regional home health intermediaries and Common Working File hosts.

II. Amendment to the FY 1994 CPEP Notice

The notice published on September 30, 1993 (58 FR 51085), in addition to providing detailed descriptions of the specific CPEP criteria, standards, and procedures, included a summary of how the performance evaluations and assessments affect individual contract action decisions. The summary was contained on page 50190 and was entitled "Action Based on Performance Evaluations." In our discussion of action to be taken based on performance, we did not address a situation that could arise if we did not receive accurate information from our contractors.

We have discovered a number of instances where information has been manipulated or falsified by contractor personnel in an effort to receive a more favorable evaluation under CPEP. On October 28, 1993, we issued notices to each of the Medicare contractors that they must certify that all information submitted to HCFA with respect to CPEP for fiscal year 1993 was accurate and complete to the best of their knowledge and belief. We also informed the Medicare contractors that we would modify the annual CPEP notice to include mention of the requirement that they certify, under penalty of perjury, the accuracy of the information reviewed and data submitted to HCFA with respect to CPEP. The modification does not alter the criteria and standards that were effective October 1, 1993.

So that our public notice relating to CPEP accurately reflects our administration of the evaluation program, we are revising Section H. Action Based on Performance Evaluations (page 50190 of the 1994 CPEP notice published September 30, 1993) by adding the following:

Each contractor must certify that all information submitted to HCFA related to CPEP, including without limitation all records, reports, files, papers and other information, whether in written, electronic, or other form, are accurate and complete to the best of the contractor's knowledge and belief. A contractor will also be required to certify that its files, records, documents, and data have not been manipulated or falsified in an effort to receive a more favorable performance evaluation. A contractor must further certify that, to the best of its knowledge and belief, the contractor has submitted, without withholding any relevant information, all information required to be submitted with respect to CPEP under the authority of applicable law(s), regulation(s), contracts, or HCFA manual provision(s). Any contractor that makes a false, fictitious, or fraudulent certification may be subject to criminal and/or civil prosecution, as well as appropriate administrative action. Such

administrative action may include debarment or suspension of the contractor, as well as the termination or nonrenewal of a contract.

For the convenience of the reader, the full text of Section H is republished below with the addition found in the first paragraph.

H. Action Based on Performance Evaluations

A contractor's performance is evaluated against each applicable standard in the Program Requirements criterion. Each contractor must certify that all information submitted to HCFA related to CPEP, including without limitation all records, reports, files, papers and other information, whether in written, electronic, or other form, are accurate and complete to the best of the contractor's knowledge and belief. A contractor will also be required to certify that its files, records, documents, and data have not been manipulated or falsified in an effort to receive a more favorable performance evaluation. A contractor must further certify that, to the best of its knowledge and belief, the contractor has submitted, without withholding any relevant information, all information required to be submitted with respect to CPEP under the authority of applicable law(s), regulation(s), contracts, or HCFA manual provision(s). Any contractor that makes a false, fictitious, or fraudulent certification may be subject to criminal and/or civil prosecution, as well as appropriate administrative action. Such administrative action may include debarment or suspension of the contractor, as well as the termination or nonrenewal of a contract. If a contractor meets the level of performance required by operational instructions, it meets the requirements of that standard. Any performance measured below basic operational expectations constitutes a deficiency. The contractor may be required to develop and implement a corrective action plan when performance problems are identified. The contractor will be monitored to assure effective and efficient compliance with the corrective action plan and improved performance where standards are not met.

A contractor's performance is assessed under the Process Improvement criterion to determine the success of the improvements developed and/or implemented by the contractor during the review period. A contractor's performance is similarly assessed under the Customer Satisfaction criterion to determine the degree to which the contractor has satisfied its customers.

The results of performance evaluations and assessments under all three criteria will be used for contract management activities and will be published in the contractor's annual performance report. We may initiate administrative actions as a result of the evaluation of contractor performance based on these performance criteria and standards. Under sections 1816 and 1842 of the Act, we consider the results of the evaluation in our determinations on:

- Entering into, renewing, or terminating agreements or contracts with contractors; and
- Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These decisions are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:

—Relative overall performance compared to other contractors;
—Number of standards in which deficient performance occurs;
—Extent of each deficiency;
—Relative significance of the standards for which deficient performance occurs within the overall CPEP; and
—Efforts to improve program quality, service, and efficiency.

- Decisions concerning the assignment or reassignment of providers and designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the effective and efficient administration of the Medicare program.

III. Effective Date

As stated in the September 30 notice, we make every effort to publish the CPEP criteria and standards prior to the beginning of the Federal fiscal year to which they will be applied, and it is not our intention to revise the criteria and standards once this information has been published in the **Federal Register**. Should changes be necessary, we will issue a **Federal Register** notice prior to implementation of the changes and specify a prospective effective date applicable to the revised standard or criterion. In this instance, the addition of this certification requirement to our discussion of actions based on performance evaluations does not alter any standard or criterion published September 30, 1993. Therefore, this notice is effective September 6, 1994.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: (Secs. 1102, 1816, 1842, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, and 1395hh)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance Program; and No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 7, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94–21870 Filed 9–2–94; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Cooperative Agreement With the National Rural Health Association

AGENCY: Health Resources and Services Administration (HRSA), PHS, DHHS.

ACTION: Notice of Cooperative Agreement Award.

SUMMARY: The Federal Office of Rural Health Policy (ORHP), Health Resources and Services Administration (HRSA) announces its intent to award funds in FY 1994 to support a cooperative agreement with the National Rural Health Association (NRHA), Kansas City, MO.

The Federal Office of Rural Health Policy seeks solutions to the health care problems of rural communities by working with Federal agencies, the States, national associations, foundations and private sector organizations. This award will initiate a number of projects designed to (1) help build State and local infrastructure through a variety of approaches including workshops, conferences, technical assistance, etc. and (2) develop and provide current information to a wide audience through various mechanisms including journals, meetings, publications, etc. During 1995, significant investment will be made in a project that supports the President's Empowerment Zones and Enterprise Communities (EZ/EC) Initiative. Resources, information, and technical assistance will be made available to 3 EZ and 30 EC (rural) to help foster community based solutions to local health care problems. This cooperative agreement will create an ongoing partnership with significant involvement and input from the ORHP into the design, development and implementation of all projects.

HRSA plans to award this cooperative agreement to the NRHA because of its unique characteristics, skills and superior qualifications in the area of rural health care. NRHA is the only

organization with a broad and diverse membership from rural areas throughout the country, a clear mission to improve the delivery of health services in rural areas, and the staff capability to provide research, educational, leadership, and information support to help rural citizens build, maintain and improve the institutions that can meet their health care needs. Accordingly, HRSA has determined that there is adequate basis for awarding this cooperative agreement to the NRHA without competition.

This cooperative agreement is authorized under section 301 of the PHS Act, with funds appropriated under Public Law 103–112 (HHS Appropriations Act for FY 1994).

AVAILABILITY OF FUNDS: Approximately $530,000 will be made available for obligation to support the cooperative agreement for a budget period of one year and a project period of three years beginning in FY 1994. Approximately $350,000 of the total will be allocated to support the EZ/EC Initiative.

OTHER AWARD INFORMATION: This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented by 45 CFR Part 100).

FOR FURTHER INFORMATION: Contact Jerry Coopey, Director of Government Affairs, Office of Rural Health Policy, Parklawn Building, Rm. 9–05, Rockville, MD 20857, (301) 443–0835.

Dated: July 25, 1994.

Ciro V. Sumaya,

Administrator.

[FR Doc. 94–21790 Filed 9–2–94; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Dietary Guidelines Advisory Committee; Meeting

AGENCIES: U.S. Public Health Service, Department of Health and Human Services, and the U.S. Department of Agriculture.

ACTION: Dietary Guidelines Advisory Committee: Announcement of appointment; Notice of meeting; Opportunity to provide written comment.

SUMMARY: The Department of Health and Human Service (HHS) and the Department of Agriculture (USDA) (a) announce the appointment of the Dietary Guidelines Advisory Committee to review the Dietary Guidelines for Americans published in 1990, (b) provide notice of the first meeting of the Committee, and (c) solicit written comments.

DATES: (1) The Committee will meet September 22, 1994, 10 a.m. to 4 p.m. and September 23, 1994, 9 a.m. to 12:30 p.m. e.s.t. at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024. (2) Written comments on the Guidelines may be submitted up to 5 p.m. e.s.t. on December 30, 1994.

FOR FURTHER INFORMATION CONTACT:

Karil Bialostosky, M.S., Executive Secretary from HHS to the Dietary Guidelines Advisory Committee, Office of Disease Prevention and Health Promotion, Room 2132 Switzer Building, 330 C Street, SW., Washington, DC 20201, (202) 205–9007.

SUPPLEMENTARY INFORMATION:

Dietary Guidelines Advisory Committee

The eleven-member Committee appointed by the Secretaries of the two Departments, is chaired by Doris Calloway, University of California, Berkeley, California. Other members are Dennis Bier, Baylor College of Medicine, Houston, Texas; William Dietz, New England Medical Center Hospitals, Boston, Massachusetts; Cutberto Garza, Cornell University, Ithaca, New York; Richard Havel, University of California, San Francisco, California; Shiriki Kumanyika, Penn State College of Medicine, Hershey, Pennsylvania; Marion Nestle, New York University, New York, New York; Irwin H. Rosenberg, Tufts University, Boston, Massachusetts; Sachiko T. St. Jeor, University of Nevada School of Medicine, Reno, Nevada; Barbara O. Schneeman, University of California, Davis, California; John W. Suttie, University of Wisconsin, Madison, Wisconsin.

Committee's Task

The appointment of the Committee reflects the commitment by the Departments of Health and Human Services and Agriculture to the provision of sound and current dietary guidance to the consumer. The National Nutrition Monitoring and Related Research Act of 1990 (Pub. L. 101–445) requires the Secretaries of HHS and USDA to publish the Dietary Guidelines for Americans at least every five years. The Dietary Guidelines Advisory Committee will advise the Secretaries as to whether a revision of the 1990 edition of Nutrition and Your Health: Dietary Guidelines for Americans is warranted. If the committee decides a revision is warranted, it will recommend revisions to the Secretaries for the 1995 edition.

Announcement of Meeting

The Committee's first meeting will be September 22, 1994, 10 a.m. to 4 p.m. and September 23, 1994, 9 a.m. to 12:30 p.m. e.s.t. The meeting will be held at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024. The agenda will include (a) orientation, (b) brief scientific review and discussion related to the guidelines, and (c) formulation of plans for future work of the Committee.

Public Participation at Meeting

The meeting is open to the public. However, space is limited for all sessions. Written comments from the public will be accepted, but oral comments at the meeting will not be permitted. Please call Karil Bialostosky (202/205–9007) by September 8 if you will require a sign language interpreter.

Written Comment

By this notice, the Committee is soliciting submission of written comments, views, information and data pertinent to review of the Dietary Guidelines for Americans. Comments should be sent to Karil Bialostosky, at the Office of Disease Prevention and Health Promotion, Switzer Building, Room 2132, 330 C Street, SW., Washington, DC 20201, by 5 p.m. e.s.t. on December 30, 1994.

Dated: August 30, 1994.

J. Michael McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 94–21791 Filed 9–2–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–04–4210–05]

Realty Action; Competitive, Direct, and Modified Competitive Sales of Public Lands; Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, sale of public lands in Morrill County, Nebraska.

SUMMARY: The following public surface estate has been determined to be suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 STAT. 2750; 43 U.S.C. 1713). The Bureau of Land Management (BLM) is required to receive fair market value for

the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if the sale would not be consistent with FLPMA or other applicable law.

Serial No.	Legal description	Acres
Sixth Principal Meridian:		
NEW114139	T. 22 N., R. 46 W., sec. 7, lot 3	3.86
NEW114142	T. 19 N., R. 49 W., sec. 21, NW¼SW¼	40
NEW114143	T. 21 N., R. 49 W., sec. 20, W½NW¼	80
NEW114144	T. 21 N., R. 49 W., sec. 29, SE¼SW¼	40
NEW114145	T. 20 N., R. 50 W., sec. 2, S½NW¼	80
NEW114146	T. 20 N., R. 50 W., sec. 5, N½SE¼NW¼, SW¼SE¼NW¼	30
NEW114147	T. 20 N., R. 50 W., sec. 5, SW¼NW¼SW¼, NW¼SW¼SW¼.	20
NEW114148	T. 20 N., R. 50 W., sec. 5, SW¼SE¼SW¼	10
NEW114149	T. 20 N., R. 50 W., sec. 7, SE¼NW¼	40
NEW114212	T. 21 N., R. 51 W., sec. 22, E½SE¼	80
NEW114213	T. 20 N., R. 52 W., sec. 20, SW¼SE¼	40
NEW114214	T. 20 N., R. 52 W., sec. 27, E½NW¼	80
Total		543.86

FOR FURTHER INFORMATION CONTACT: Floyd Ewing, Area Manager, Bureau of Land Management, Newcastle Resource Area, 1101 Washington Blvd., Newcastle, Wyoming 82701, 307–746–4453.

SUPPLEMENTARY INFORMATION: This sale is consistent with Bureau of Land Management policies and the Nebraska Resource Management Plan. The purpose of this sale is to dispose of 12 isolated parcels of public land. The fair market values, planning document, and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Newcastle Resource Area, Newcastle, Wyoming.

The publication of this Notice of Realty Action in the **Federal Register** shall segregate the above public lands from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice will terminate upon issuance of a conveyance document, 270 days, or when a cancellation Notice is published, whichever occurs first.

Sale Procedures

1. The following sales will be conducted by competitive bidding: NEW 114142, NEW114145, NEW114147.

2. The following parcels will be offered by direct sale to the adjoining landowner: NEW114144, NEW114149, NEW114213. The adjoining landowner will be required to submit proof of adjoining landownership before a bid can be accepted.

3. The following parcels will be offered by modified competitive sale to the adjoining landowners: NEW114139, NEW114143, NEW114146, NEW114148, NEW114212, NEW114214.

4. All bidders must be U.S. citizens, 18 years of age or older, corporations authorized to own real estate in the State of Nebraska, a state, state instrumentality or political subdivision authorized to hold property, or an entity legally capable of conveying and holding land or interests in Nebraska.

5. Sealed bidding is the only acceptable method of bidding. All bids must be received in the Newcastle Resource Area Office by 11:00 a.m., November 23, 1994, at which time the sealed bid envelopes will be opened and the high bid announced. The high bidder will be notified in writing within 30 days whether or not the BLM can accept the bid. The sealed bid envelope must be marked on the front lower left-hand corner with the words "Public Land Sale (identify serial number), Sale held November 23, 1994."

6. All sealed bids must be accompanied by a payment of not less than 10 percent of the total bid. Each bid and final payment must be accompanied by certified check, money order, bank draft, or cashier's check made payable to: Department of the Interior—BLM.

7. Failure to pay the remainder of the full bid price within 180 days of the sale will disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of the sale. If the apparent high bidder is disqualified, the next highest qualified bid will be honored or the land will be reoffered under competitive procedures. If two or more envelopes containing valid bids of the same amount are received, supplemental sealed bidding will be used to determine the high bid. Additional sealed bids will be submitted to resolve all ties.

8. If any parcels fail to sell, they will be reoffered for sale under competitive procedures. For reoffered land, bids must be received in the Newcastle Resource Area Office by 11:00 a.m. on the fourth Wednesday of each month beginning December 28, 1994. Reoffered land will remain available for sale until sold or until the sale action is canceled or terminated. Reappraisals of the parcel will be made periodically to reflect the current fair market value. If the fair market value of the parcel changes, the land will remain open for competitive bidding according to the procedures and conditions of this notice.

9. Parcels NEW114147 and NEW114148 are crossed by the Burlington Northern Railroad. Parcel NEW114142 is crossed by a buried telephone cable (US West Communications), and a powerline (Wheatbelt Public Power District). Parcels NEW114147 and NEW114213 are crossed by a powerline (Chimney Rock Public Power District).

Patent Terms and Conditions

Any patent issued will be subject to all valid existing rights. Specific patent reservations include:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals will be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the BLM Newcastle Resource Area Office.

3. David J. Wolf is the grazing lessee (GR–498040) on parcel NEW114145. Any conveyance will be subject to the existing grazing use of David J. Wolf.

The rights of David J. Wolf to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. GR–498040 shall cease 2 years from the date of sale. The successful bidder is entitled to receive annual grazing fees from David J. Wolf in an amount not to exceed that which would be authorized under the Federal grazing fee published in the **Federal Register**.

4. David J. Wolf is the grazing lessee (GR–498040) and owner of the following authorized permanent range improvement: Project No. 6061, a fence. If any party, other than David J. Wolf, is the successful bidder on the land being offered for sale (NEW114145), that party shall be required to reimburse David J. Wolf for the adjusted value of the range improvement and furnish proof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area, before conveyance can be made. If the bidder and grazing lessee are unable to agree on compensation for the range improvement, the authorized office shall determine the adjusted value.

5. Richard J. Faessler is the grazing lessee (GR–498011) on parcel NEW114142. Any conveyance will be subject to the existing grazing use of Richard J. Faessler. The rights of Richard J. Faessler to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. GR–498011 shall cease on February 28, 2002. The successful bidder is entitled to receive annual grazing fees from Richard J. Faessler in an amount not to exceed that which would be authorized under the Federal grazing fee published in the **Federal Register**.

For a period of 45 days from the date of this notice published in the **Federal Register**, interested parties may submit comments to the BLM, District Manager, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become final.

Dated: August 25, 1994.

Donald Hinrichsen,

District Manager.

[FR Doc. 94–21796 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–22–M

[ID–942–04–406A–02]

Idaho: Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., August 25, 1994.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines, Township 4 North, Range 17 East, Boise Meridian, Idaho, Group No. 870, was accepted August 22, 1994.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 25, 1994.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 94–21797 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–GG–M

[ID–942–04–333A–02]

Idaho: Filing of Plats of Survey; Idaho

The supplemental plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., August 26, 1994.

The supplemental plat, prepared to show a subdivision of original Lot 1 in section 9, Township 5 South, Range 3 East, Boise Meridian, Idaho, was accepted August 24, 1994.

This supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: August 26, 1994.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 94–21798 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–GG–M

[OR–942–00–4730–02: G4–265]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management.

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. 17 S., R. 2 E., accepted June 29, 1994
T. 37 S., R. 2 E., accepted July 21, 1994
T. 16 S., R. 2½ E., accepted July 26, 1994
T. 2 S., R. 7 E., accepted July 6, 1994
T. 18 S., R. 1 W., accepted July 21, 1994
T. 34 S., R. 1 W., accepted June 29, 1994
T. 16 S., R. 2 W., accepted July 21, 1994
T. 24 S., R. 2 W., accepted July 21, 1994
T. 33 S., R. 3 W., accepted July 5, 1994
T. 3 S., R. 6 W., accepted July 22, 1994
T. 15 S., R. 6 W., accepted July 22, 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 NE., 44th Avenue Porland, 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 thirty (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 NE., 44th Avenue P.O. Box 2965, Portland, Oregon 97208.

Dated: August 24, 1994.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 94–21799 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–33–M

[AZ–930–4214–10; AZA–28642]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 3,620 acres of public and non-Federal land from settlement, sale, location or entry under the general land laws including the mining laws but not the mineral leasing laws, for a period of 50 years. The purpose of the proposed withdrawal is to protect the archaeological resources in the Gila River Cultural Area of Critical Environmental Concern (ACEC), also known as Sears Point Archaeological District. This notice temporarily closes the land for up to 2 years until various studies and analysis are completed to support a final decision.

DATES: Comments and requests for a public meeting must be received by December 5, 1994.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, BLM, 3707 North Seventh Street, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, (602) 650–0509.

SUPPLEMENTARY INFORMATION: On August 11, 1994, a petition was approved allowing the Bureau of Land Management to file the application to withdraw the following described public and non-Federal land from entry under the general land laws and the mining laws, subject to valid existing rights. The land will remain open to mineral leasing.

Gila and Salt River Meridian

Public Land

T. 6 S., R. 11 W.
Sec. 1: SW¼SW¼;
Sec. 3: S½SE¼;
Sec. 4: S½;
Sec. 9: N½N½, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 10: N½NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 11: N½NE¼, N½S½NE¼, NE¼NW¼, NE¼SE¼NW¼;
Sec. 12: NW¼NW¼, N½SW¼NW¼.

The above described areas contain 1,430 acres.

Private Land

T. 6 S., R. 11 W.
Sec. 2: S½;
Sec. 3: SW¼, N½SE¼;
Sec. 9: SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 10: NE¼, S½NW¼, SE¼SE¼;
Sec. 11: S½S½NE¼, W½NW¼, NW¼SE¼NW¼, S½SE¼NW¼, S½;
Sec. 15: S½;
Sec. 16: S½.

The above described area contain 2,190 acres.

The withdrawal applies only to the Federal lands and minerals, however, in the event any of the non-Federal lands or minerals are returned to Federal ownership, they would without further action become subject to the terms and conditions of the subject withdrawal.

The areas described contain approximately 3,620 acres in Yuma County. The purpose of the proposed withdrawal is to protect the archaeological resources in the designated Gila River Cultural ACEC.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Arizona State Director of the Bureau of Land Management. Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Arizona State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Herman L. Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 94–21859 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–32–P

Minerals Management Service (MMS)

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0091); Washington, D.C. 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 254, Response Plans for Facilities Located Seaward of the Coast Line

OMB approval number: 1010–0091

Abstract: The MMS proposes to amend the regulations at 30 CFR part 254 to implement the Oil Pollution Act of 1990 to establish requirements for spill-response plans for oil-handling facilities located seaward of the coast line, including associated pipelines. The amendments will provide guidance to owners and operators to prepare and submit spill-response plans. The MMS will use this information to determine the adequacy of a spill-response plan that has been submitted to a State or to determine the response capability of the owners and operators.

Bureau form number: None

Frequency: On occasion

Description of respondents: Federal Outer Continental Shelf lessees and facility owners and operators

Estimated completion time: 99.6 hours (rounded)

Annual responses: 270

Recordkeeping hours: 1,865

Annual burden hours: 28,756

Bureau clearance officer: Arthur Quintana, (703) 787–1239

Dated: August 11, 1994.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 94–21800 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–MR–M

NATIONAL PARK SERVICE

General Management Plan, Final Environmental Impact Statement, Jewel Cave National Monument, SD

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of final environmental impact statement/general management plan for Jewel Cave National Monument.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy

Act of 1969, the National Park Service (NPS) announces the availability of a Final Environmental Impact Statement/ General Management Plan (FEIS/GMP) for Jewel Cave National Monument, South Dakota.

DATES: A 30-day no-action period will follow the Environmental Protection Agency's notice of availability of the FEIS/GMP.

ADDRESSES: Public reading copies of the FEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Jewel Cave National Monument, Telephone: (605) 673–2288.

Division of Planning Design and Maintenance, Rocky Mountain Regional Office, National Park Service, 12795 West Alameda Parkway, Lakewood, CO 80225, Telephone: (303) 969–2620.

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: The FEIS/ GMP analyzes two alternatives to protect resources while providing for visitor use of the monument. Under Alternative A, the no-action alternative, existing programs, development, and trends (including implementation of the draft Resource Management Plan) would continue, but new facilities and interpretation would not be added. In the proposed action (alternative B); emphasis would be on protection of Jewel Cave through understanding and mitigation of the effects on cave resources caused by surface facilities and activities. Visitor safety would be given a high priority; access for visitors with disabilities would be improved; interpretation would be expanded to help visitors better understand the relationship between surface and subsurface resources; and the National Park Service would pursue cooperative ventures and boundary expansion to protect cave resources.

The FEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on cave resources, geology, soils and vegetation, wildlife, water resources, air quality, cultural resources, visitor experience, socioeconomic environment, and management and operations.

FOR FURTHER INFORMATION CONTACT:

Superintendent, Jewel Cave National Monument, at the above address and telephone number.

Dated: August 23, 1994.

Robert M. Baker,

Regional Director, Rocky Mountain Region, National Park Service.

[FR Doc. 94–21873 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–70–P–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan Amendment; Presidio of San Francisco, Golden Gate National Recreation Area; Availability of Final General Management Plan Amendment and Final Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a Final General Management Plan Amendment/ Environmental Impact Statement (FGMPA/FEIS) that describes and analyzes a proposed action and three alternatives for the future management and use of the Presidio of San Francisco, Golden Gate National Recreation Area, California. The FGMPA/FEIS is being presented in two companion documents—the FGMPA, which describes the proposed action in detail; and the FEIS, which presents the proposal and three alternatives, along with the analysis of the environmental consequences of their respective implementations.

The draft General Management Plan Amendment/Environmental Impact Statement (DGMPA/DEIS) were released for public review on October 21, 1993 (58 FR 54372), and the public comment period closed December 21, 1993. During this period, three informal meetings and five public meetings were held; written comments were also received. The FGMPA/FEIS contain responses to the comments received and modifications to the text as needed in response to the comments.

The proposed action and alternatives all have been designed to protect and preserve exceptional resources and to meet planning objectives and goals for the future Presidio. They differ primarily in approach to overall management, level and extent of resource preservation and enhancement, and diversity and level of visitor programs. The proposed action, Alternative A, provides goals for creating a park setting where cultural and natural resources are preserved and enhanced; and major new programs are established through public/private partnerships to provide an understanding of those resources, encourage stewardship and cultural awareness, promote international exchange, and seek solutions to critical global problems. A federally chartered partnership institution would be created through congressional legislation to assist in managing park partners, and legislation would also be sought to include the former Public Health Service Hospital complex within the Presidio. Modifications have been made to the proposal based on public comment and clarification of Army re-use needs. The changes primarily relate to additional clarification regarding the amount and type of new construction, Army reuse, remediation of environmental hazards, the preservation of historic buildings, building demolition, the jobs/housing balance, addition of adjacent Lobos Creek undeveloped lots, tenant management, the type of partnership institution assisting with management, dog walking, Crissy Field parking and boardsailing access, Golden Gate Bridge, Highway and Transportation District maintenance facilities, the importance of the Presidio's history and potential museum opportunities, affirmative action programs, Letterman complex reuse, and the Lobos Creek maintenance facility.

Alternative B, the no action/minimum requirements option, uses existing authorities for management, provides fewer visitor programs and opportunities, and excludes the former Public Health Service Hospital from the park boundaries. Alternative C, the expanded open space, restoration and interpretation option, provides a high level of overall resource protection similar to Alternative A, but relies on existing management authorities, as in Alternative B. As with Alternative B, the Public Health Service Hospital is excluded from the park boundaries, and in addition, under this option, the Letterman Army Hospital and Research Center would be excluded. Alternative D, the partial military reuse option, shares Alternative B's lower level of overall resource protection and fewer visitor programs and opportunities, but is similar to Alternative A with respect to inclusion of the former Public Health Service Hospital and the necessity of obtaining legislation for new management authorities.

Major impact topics assessed for the proposed action and alternatives include natural and cultural resources; traffic and transportation systems; city services; native plant communities; regional economy and employment; noise; and air quality.

SUPPLEMENTARY INFORMATION: The 30-day no action period will expire on September 26, 1994. Requests for information on the FGMPA/FEIS should be directed to: Superintendent, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123. Telephone (415) 556–3111.

Copies will be available at the Presidio Project Office: Building 102, Montgomery Street, Presidio of San Francisco, CA 94129. Additional copies will be available for inspection at libraries located in the San Francisco Bay area; the Department of Interior Library; the National Park Service Public Affairs Office, 1849 C Street NW., Washington, DC 20240; and at the Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison, Suite 600, San Francisco, CA 94107–1372. In addition, all Federal Repository libraries will receive copies.

Dated: August 25, 1994.

James Stewart,

Acting Associate Director, Planning and Development.

[FR Doc. 94–21802 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–70–P

General Management Plan, Final Environmental Impact Statement, Wind Cave National Park, SD

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of Final Environmental Impact Statement/ General Management Plan for Wind Cave National Park.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Final Environmental Impact Statement/ General Management Plan (FEIS/GMP) for Wind Cave National Park, South Dakota.

DATES: A 30-day no-action period will follow the Environmental Protection Agency's notice of availability of the FEIS/GMP.

ADDRESSES: Public reading copies of the FEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Wind Cave National Park, Telephone: (605) 745–4600.

Division of Planning Design and Maintenance, Rocky Mountain Regional Office, National Park Service, 12795 West Alameda Parkway, Lakewood, CO 80225, Telephone: (303) 969–2620.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: The FEIS/GMP analyzes three alternatives to ensure the long-term preservation of the significant resources and provide for public use and enjoyment of the park's many features. The no-action alternative (Alternative A) would continue current management and operations in existing facilities. The proposed plan (Alternative B) would increase visitor services, improve administrative and maintenance facilities, address health and safety issues, and improve employee housing, while mitigating effects of surface facilities and activities on the cave and providing for additional visitor use. There would be no significant change in the current level, type and location of development. Alternative C is similar to the proposed plan, but would also remove the campground, eliminate the concession, remove the sewage lagoons and install a discharging tertiary wastewater treatment plant and remove the bison fence.

The FEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on cave geology, soils, and vegetation; wildlife; water resources; air quality; cultural resources; visitor use; socioeconomic effects; and management and operations.

FOR FURTHER INFORMATION CONTACT: Superintendent, Wind Cave National Park, at the above address and telephone number.

Dated: August 23, 1994.

Robert M. Baker,

Regional Director, Rocky Mountain Region, National Park Service.

[FR Doc. 94–21872 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–70–P–M

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, September 16, 1994.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at 1 p.m. at Park Headquarters, Marconi Station for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Superintendent's Report
6. GMP Update
7. Dune shacks
8. Highland Lighthouse
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Communications/Public Comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/ written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: August 25, 1994.

Marie Rust,

Regional Director.

[FR Doc. 94–21874 Filed 9–2–94; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 92–90]

John W. Copeland, M.D.; Revocation of Registration

On September 9, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John W. Copeland, M.D. (Respondent), of Antioch, California, proposing to revoke Respondent's DEA Certificate of Registration, AC8638085, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f) and 824(a). The Order to Show Cause alleged that Respondent's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4)

and that Respondent was convicted of a felony under State law relating to controlled substances, as set forth in 21 U.S.C. 824(a)(2). Specifically, the Order to Show Cause alleged that between December 1987 and October 1989, Respondent dispensed Ritalin, a Schedule II controlled substance, to ten individuals for other than legitimate medical purposes and outside the scope of his professional practice; between January 1988 and October 1989, Respondent dispensed anabolic steroids, Schedule III controlled substances under applicable state law, to fifteen individuals for other than legitimate medical purposes and outside the scope of his professional practice; and on May 30, 1991, Respondent was convicted in the State of California of six felony counts of prescribing controlled substances to addicts or habitual users of controlled substances and such prescriptions were not issued as part of an authorized methadone program.

Respondent, through counsel, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held, beginning on June 29, 1993, in San Francisco, California.

On April 21, 1994, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that Respondent's DEA Certificate of Registration be revoked. Respondent filed exceptions to the administrative law judge's decision pursuant to 21 CFR 1316.66, and attached a Stipulation, Decision and Order of the Medical Board of California (MBC), dated March 30, 1994, which allowed Respondent to retain all controlled substance privileges except that Respondent was prohibited from handling anabolic steroids and was allowed to use Schedule II controlled substances only in a hospital setting. The MBC order also placed Respondent's medical license on probation for five years with various other conditions. The Government filed a response to Respondent's exceptions.

On May 23, 1994, Judge Bittner transmitted the record of the proceedings, including the Respondent's exceptions and the Government's response thereto, to the Deputy Administrator. The Deputy Administrator has carefully considered the record and adopts the opinion and recommended decision of the administrative law judge in its entirety. Pursuant to 21 CFR 1316.67, the Deputy Administrator hereby issues his final order in this matter.

The Deputy Administrator finds that Respondent has had a solo practice in family and emergency medicine since 1967. For a short time in 1969 to 1971, he volunteered as a treating physician in a drug addiction clinic. Sometime after this clinic closed in 1971, Respondent continued to treat some of the former patients of this clinic in the course of his general practice. At no time did Respondent ever posses a DEA registration to operate a narcotic treatment program as required by 21 U.S.C. 823(g).

Respondent's treatment of drug addiction was not the subject of any law enforcement investigation until 1988, when one of his patients was arrested and found with prescription vials for Tylenol with codeine, a Schedule III controlled substance, and Valium, a Schedule IV controlled substance. The prescribing physician was Respondent. When asked about these prescriptions, Respondent stated that they were issued to treat the patient for heroin addiction. As a result, the California Bureau of Narcotic Enforcement (BNE) commenced an investigation of Respondent's medical practice.

In April 1988, a BNE undercover operative made her first visit to Respondent's office and informed him that she was addicted to Ritalin and that she also abused methamphetamine, a Schedule II controlled substance. Respondent issued her a prescription for 60 dosage units of Ritalin. She returned to Respondent's office three weeks later, seeking a refill before her first Ritalin prescription should have expired. Respondent complied by issuing her another prescription for 60 dosage units of Ritalin. She made two more visits to Respondent's office (about a month apart) and each time Respondent issued her another Ritalin prescription, one for 50 dosage units and the other for 60 dosage units. She did not return to Respondent's office until May of 1989, at which time she saw Respondent's associate physician who prescribed her only 8 dosage units of Ritalin to hold her until she could see Respondent. Three days later, when she saw Respondent, he decided not to reissue her a Ritalin prescription. Respondent, however, suggested that she "quit speed" and use marijuana, a Schedule I controlled substance, instead.

A patient who had been treated by Respondent with controlled substances for drug addiction since 1974 agreed to act as an undercover operative along with a police detective who posed as her boyfriend. During their visit in April 1989, Respondent admonished the female undercover operative for missing a prior appointment by stating, "Where are you going to find a doctor doing what I am doing?" Respondent did not issue her a Valium prescription as she requested, but issued her a prescription for 40 dosage units of Restoril, a Schedule IV controlled substance. Her medical bill indicated that the prescription was issued for drug withdrawal.

Although the undercover detective was not seeking treatment, Respondent asked him if he had any problems. When the detective answered that he liked methamphetamine but that his drug problem was not as bad as his girlfriend's addiction, Respondent wrote the detective a prescription for 60 dosage units of Restoril. The detective returned to Respondent's office less than a month later and again stated that he was abusing methamphetamine. Respondent issued him another prescription for 60 dosage units of Restoril and then asked the detective if he shared the drugs with his girlfriend. When the detective responded in the affirmative Respondent increased the Restoril prescription to 80 dosage units. In addition, Respondent dispensed 30 dosage units of Fastin, a Schedule IV controlled substance used for diet control, to the detective. Respondent explained that he wanted the detective to stop taking methamphetamine and instead use "legal" drugs.

Several of Respondent's patients were arrested in 1989. One was arrested for driving under the influence of drugs. The day before her arrest, Respondent had issued her a prescription for 100 dosage units of Valium, a Schedule IV controlled substance, a prescription for 100 dosage units of Darvocet, a Schedule IV controlled substance, and a prescription for 60 dosage units of Restoril. At the time of the arrest only 50 dosage units of Valium and 73 dosage units of Darvocet remained in the vials. Following the arrest, it was determined that the individual was a drug addict whom Respondent was treating.

One of Respondent's employees stated that many of Respondent's patients were drug addicts. This statement was confirmed when many of Respondent's patient files were seized during a state criminal search warrant executed at Respondent's office on October 17, 1989. The files revealed that 150 patients who were addicts were being treated with controlled substances; another 16 patients who were addicts were no longer being treated by Respondent. Many of these patients continually received controlled substances for a number of years. For

example, one patient received 4,005 dosage units of Tylenol with codeine #4, 2,330 dosage units of Valium 10 mg., and 900 dosage units of phenobarbital, a Schedule IV controlled substance, between January 22, 1987, and October 12, 1989.

Respondent was interviewed about his treatment of drug addicts during the execution of the October 1989 search warrant. Respondent stated that patients were required to pay cash and that he determined that certain individuals were drug addicts based upon physical indications and discussions with his nurse, a former drug addict. He admitted, however, that he did not perform blood or urine tests because they were too expensive and did not keep any recovery logs for these patients, to memorialize the quantity and length of time that drugs are prescribed and what recovery programs the addict attends. Respondent also disclosed that after he learned that some of his drug addict patients were selling the drugs he prescribed, he raised his treatment prices, so that his patients would have less financial incentive to sell their drugs.

Two physician expert reports found that Respondent was not acting in the course of professional medical practice by prescribing the dosages of controlled substances that he did, especially when he was aware that the patients were drug addicts.

The BNE investigation also focused on Respondent's prescribing and dispensing of anabolic steroids. In June 1987, an investigator from the then-California Board of Medical Quality Assurance (now MBC) had a discussion with Respondent about allegations that Respondent dispensed anabolic steroids to high school students. Respondent denied such allegations and maintained that he lectured high school students on the health hazards of using such substances. On April 3, 1989, a BNE investigator also discussed the use of anabolic steroids with Respondent. When Respondent opined that such substances could be dispensed to enhance a person's physical appearance under close medical supervision, the investigator informed him of the California statute that classified anabolic steroids as controlled substances which became effective in 1986. Respondent also stated that he was discontinuing the dispensing and prescribing of anabolic steroids because he had heard rumors that the police were planning to make an undercover purchase of these substances from him.

The BNE investigation also revealed that Respondent was one of the two highest purchasers of Anavar, an anabolic steroid, from a particular supplier between 1985 and 1988. Some of Respondent's employees divulged that Respondent prescribed, dispensed and administered anabolic steroids out of his office to young adult males for the purpose of body enhancement. These employees also disclosed that Respondent required cash payments and that Respondent seldom conducted blood tests on these individuals.

A police detective admitted that he had received steroids from Respondent in 1988. Another officer, who also admitted to obtaining anabolic steroids from Respondent for purposes of body enhancement, indicated he used steroids based upon Respondent's recommendation. While a BNE investigator was executing the search warrant at Respondent's office on October 17, 1989, she encountered a patient who was there to obtain anabolic steroids for body enhancement. The individual explained to her that when he initially obtained steroids from Respondent he was not warned about any dangers that accompanied the use of such substances. He was only given one initial blood test by Respondent.

Patient files recovered from Respondent's office revealed that many had received steroids from Respondent since 1987. Few, if any, blood tests were conducted on these patients. Another patient obtained anabolic steroids from Respondent after the patient revealed that he had taken these substances in the past, was depressed and attempted suicide ten months earlier. There were ten patients who obtained anabolic steroids from Respondent after April 3, 1989, the date when Respondent was informed by a BNE investigator that anabolic steroids were controlled substance under California law; one patient received nine injections in May and June of 1989. The patient files revealed that 97 patients received anabolic steroids from Respondent during the three years preceding the execution of the search warrant and that another 103 patients had previously received anabolic steroids from Respondent.

A number of medical journal articles concerning the dangers of continual anabolic steroid use were introduced into evidence. These articles revealed that use of such substances was associated with certain psychological problems such as irritability, violent aggression, forgetfulness, confusion, abrupt mood swings and depression. Such use also was correlated with physiological problems such as decreased libido, insomnia, anorexia and metabolic disturbances. Many of these problems were reversible if the patient discontinued the use of these substances.

An expert physician reviewed Respondent's patient records and concluded that 24 patients obtained anabolic steroids from Respondent not for legitimate medical purposes. He opined that it was improper to use anabolic steroids in conjunction with other controlled substances prescribed by Respondent and that the steroids were particularly contraindicated in light of some of the patients' medical illnesses. The expert found that it was "medically dangerous" to give anabolic steroids to a patient who had experienced prior depression.

Another expert physician testified on behalf of Respondent that the doses of anabolic steroids that Respondent gave to his patients would be considered therapeutic and modest compared to reported doses used by athletes without a physician's authorization. This expert acknowledged, however, that although it is ethical to monitor the use of anabolic steroid use, it is not ethical for physicians to use such substances for the purpose that Respondent used them and that he would try to dissuade a patient from using anabolic steroids because "* * * these things are cheating in the world of sport * * *." Moreover, there would be no way to determine if Respondent's patients were obtaining additional steroids or other illicit drugs on the street. The expert noted that if a physician is providing anabolic steroids, the physician should weigh the individual and take his blood pressure on every visit. In addition, the patient's lipid levels, cholesterol and triglycerides should be measured on the first visit to establish a baseline. Respondent's files demonstrated that, for the most part, this protocol was not followed.

During execution of the search warrant, Respondent confirmed that he dispensed anabolic steroids to his patients for purposes of body enhancement. He explained that his services were necessary because if he did not provide that patients with anabolic steroids they would obtain the substances from the illicit market.

On May 30, 1991, in the Contra Costa County Court, State of California, Respondent pled *nolo contendere* to and was convicted of six felony counts of issuing controlled substance prescriptions without a legitimate medical purpose. Respondent was placed on probation and fined.

During execution of the search warrant, samples of various Schedule II through V controlled substances were discovered in various locations throughout Respondent's office,

including Respondent's desk. There were no records of receipts or dispensing for any of the controlled substance samples as required by Federal law. There was only one completed DEA 222 order form for fentanyl although Respondent also possessed Demerol, another Schedule II controlled substance.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Deputy Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Deputy Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Deputy Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. *See David E. Trawick, D.D.S.*, Docket No. 88–69, 53 FR 5326 (1988).

The Deputy Administrator concurs with the opinion and recommended ruling of the administrative law judge and finds that the second, third, fourth and fifth factors apply. Respondent clearly provided controlled substances to addicts to maintain their customary use. This conclusion is not only supported by Respondent's patient files and the information provided by Respondent and his employees, it is supported by Respondent's conviction of six felony offenses in the State of California.

Although Respondent acknowledged his treatment of addicts, he argued that he had no knowledge that he was operating unlawfully and, in any event, his treatment was effective. The administrative law judge found that it is Respondent's duty to be aware of all applicable laws and regulations. *Walter S. Gresham*, Docket No. 91–39, 57 FR 44213 (1992).

In addition, while there was some testimony from several of Respondent's patients that his drug treatment helped them, the record, for the most part, belies this contention. Respondent prescribed and dispensed controlled substances without establishing any medical need other than that the patient was an addict. Even if Respondent were registered to operate a narcotic treatment program as required by 21 U.S.C. 823(g), the prescribing of narcotics would have been unlawful pursuant to 21 CFR 1306.07(a).

Moreover, Respondent had little basis initially to verify that his patients were drug addicts other than their word. He did nothing to ensure that his patients abstained from controlled substances other than those he prescribed and he took no steps to prevent diversion of the controlled substances he supplied other than raising his price to prevent diversion for economic gain. Although Respondent contended that he was operating a detoxification program, many patients had been obtaining controlled substances from Respondent for several years. One patient was arrested for driving while under the influence of drugs after apparently consuming large amounts of controlled substances prescribed by Respondent on the previous day. The undercover visits further reinforce the conclusion that Respondent did nothing to treat his patients' addictions other than supply them with substitute controlled substances. Respondent volunteered to prescribe controlled substances for the undercover detective without seeking any information about the detective's alleged drug use or past treatment. Respondent did not offer the undercover detective any counseling and treatment and the amount of the Restoril prescription was increased on the detective's verbal assurances that he shared the Restoril with his "girlfriend" even though she was not present for this visit.

Respondent dispensed anabolic steroids in violation of applicable state law. Again, Respondent did not deny dispensing the drugs but maintained that he was unaware that it was illegal and that he dispensed these substances in order to prevent his patients from obtaining illicit steroids on the street. Respondent's discussion with various state regulatory and law enforcement officers in 1987 and 1989 contradict this assertion. As was the case with Respondent's use of controlled substances for drug addicts, he had a duty to know that his conduct regarding steroids was unlawful. In addition to the above violations, Respondent failed to keep any records of dispensing or receipt of controlled substances located in his office with the sole exception of one DEA 222 order form.

These violations represent a significant part of Respondent's practice. There is nothing in the record to indicate that Respondent understood the grave consequences of his actions, other than acknowledging that his conduct violated the law. Rather, Respondent made great efforts to justify much of his unlawful conduct. Indeed, Respondent did not cease his illegal conduct completely even after the search warrant was served. The MBC Consent Decree in no way detracts from these findings and conclusions. The Deputy Administrator has considered Respondent's arguments submitted in his exceptions and finds that the administrative law judge's findings of fact and conclusions of law are amply supported by the record. Under these circumstances, revocation of Respondent's DEA registration is the appropriate remedy at this time.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104 (59 FR 23637), hereby orders that DEA Certificate of Registration, AC8638085, previously issued to John W. Copeland, be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective October 6, 1994.

Dated: August 30, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94–21829 Filed 9–2–94; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–44]

Dellmar Pharmacy #4; Revocation of Registration

On April 8, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Dellmar Pharmacy #4 (Respondent), proposing to revoke its DEA Certificate of Registration, AD0931407, as a retail pharmacy under 21 U.S.C. 824(a)(4), and to deny any pending applications under 21 U.S.C. 823(f). The Order to Show Cause alleged that the continued registration of the Respondent would be inconsistent with the public interest.

The Respondent, by counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was docketed before Administrative

Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in San Antonio, Texas on October 28, 1993.

On May 27, 1994, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision in which she recommended that the Respondent's registration be revoked. Respondent filed exceptions to this opinion, and on June 27, 1994, the administrative law judge transmitted the record of the proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that in 1990, the DEA and the State of Texas began a joint investigation of Respondent based upon a complaint that a customer was receiving controlled substances without a physician's authorization. Investigators acquired a patient profile printout of pharmacy records for this customer, and determined from the listed physician that he had not prescribed the medication indicated. Investigators commenced an audit of the controlled substances which revealed shortages of Fastin, Dalmane, and flurazepam, all Schedule IV controlled substances. Investigators then requested a physician profile printout of pharmacy records which revealed that prescriptions had been filled for several other customers which also were erroneously attributed to this same physician. Subsequently, Respondent's owner and pharmacist-in-charge, Mr. Jesus Garcia, admitted that he had filled or refilled prescriptions for a number of customers without a physician's authorization. The audit revealed that Respondent had filled 218 controlled substance prescriptions and refilled 58 others without a physician's authorization.

The administrative law judge found that statements given to investigators by Respondent's customers indicated that customers were told to call Respondent when they needed anything, and that they would be issued controlled substances via prescriptions attributed to various doctors and filled under various patient names and addresses. Statements from the physicians involved revealed that although they may have treated the customers indicated with various courses of drugs, they often had neither issued these patients prescriptions for the controlled substances, nor did they authorize the frequency of prescribing attributed to them. These prescriptions included a wide variety of Schedule III and IV controlled substances.

The administrative law judge found that on May 29, 1991, Mr. Garcia was indicted in Bexar County, Texas, on a charge of furnishing a fraudulent prescription to a state investigator. Upon his plea of guilty, he was sentenced to four years deferred adjudication and probation.

The administrative law judge further found that on April 29, 1992, the Texas Pharmacy Board suspended Mr. Garcia's license for two years, probating all but 90 days of that period, ordered that the pharmacy pay a $3,000 fine, and required that Mr. Garcia pass a Texas Pharmacy Jurisprudence examination before resuming the practice of pharmacy.

Under 21 U.S.C. 824(a)(4), and pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. *Henry J. Schwarz, Jr., M.D.*, 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that all were relevant and that there was a statutory basis for revocation based on findings that Respondent engaged in a definite and clear pattern of furnishing huge quantities of controlled substances and other prescription medication to customers without physician authorization, and that Respondent was unable to account for substantial quantities of controlled substances. Respondent offered as evidence statements made by some of the physicians that they had actually treated some of the customers, and argued that there was a potential that the physician records failed to reflect authorization of certain prescriptions. Judge Bittner found this to be speculative and insufficient to counter the overwhelming evidence that Respondent's behavior was egregious and a total abrogation of its obligations as a DEA registrant. The administrative law judge concluded that Respondent's continued registration would not be in the public interest.

Respondent filed exceptions to the opinion and recommended ruling of the administrative law judge asserting that the administrative law judge failed to consider that Mr. Garcia cooperated with authorities in the criminal proceeding brought against him and, as a result, he was given the least possible punishment. Furthermore, he asserted that the administrative law judge failed to consider as evidence of future conduct, the fact that Mr. Garcia cooperated fully with DEA and State officials and Mr. Garcia was in compliance with this probation. Finally, Respondent argued that it has suffered enough revocation of its DEA registration would be devastating to Mr. Garcia and the low income community it services.

The Deputy Administrator finds that the administrative law judge has fully considered the facts and circumstances surrounding Mr. Garcia's guilty plea, which however, were outweighed by the Respondent's recent pattern of fraudulent activity which led to the diversion of large quantities of controlled substances. The Deputy Administrator adopts the findings of fact, conclusions of law, and recommended ruling of Administrative Law Judge Bittner in its entirety. Based on the foregoing, the Deputy Administrator concludes that the Respondent's continued registration would not be in the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104 (59 FR 23637), hereby orders that DEA Certificate of Registration, AD0931407, issued to Dellmar Pharmacy #4, be and it hereby is, revoked; and that any pending applications, be, and they hereby are, denied. This order is effective October 6, 1994.

Dated: August 30, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94–21830 Filed 9–2–94; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, P.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 3, 1994. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1031.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

Permit Application No. 95–002

1. *Applicant*

H. William Detrich, III, Department of Biology, Northeastern University, 360 Huntington Avenue, Boston, Massachusetts 02115

Activity for Which Permit is Requested

Enter Site of Special Scientific Interest

The applicant requests permission to enter the Western Bransfield Marine Site of Special Scientific Interest (MSSSI #35) and East Dallmann Bay Marine Site of Special Scientific Interest (MSSSI #36) for the purpose of collecting fish specimens by bottom trawling.

Location

MSSSI #35—Western Bransfield Strait, South Shetland Islands, and MSSSI #36—East Dallmann Bay, Brabant Island.

Dates

February 15, 1995–June 1, 1995

Permit Application No. 95–012

2. *Applicant*

E. Imre Friedmann, Department of Biological Science and Polar Desert Research Center, Florida State University, Tallahassee, Florida 32306–2043

Activity for Which Permit is Requested

Take. Enter Site of Special Scientific Interest. Import into the U.S.

The applicant proposes to collect rock samples containing living and/or fossil microbial colonizations to study extinction and/or damage due to environmental factors. This is part of a major survey extending throughout the McMurdo Dry Valleys area. Hand specimens of rocks will be collected from the ground or removed, if necessary, by geological hammer. As many as 25 samples will be collected; the samples will not weigh more than 3 pounds each. Some samples will be collected in Linnaeus Terrace (SSSI #19). Entry to the site, camping and sample collection will be in accordance with the Management Plan for SSSI #19 to ensure environmental impact will be reduced to the absolute minimum necessary to complete the research. Specimens will be examined and stored frozen in the Antarctic Core Library of Florida State University.

Location

SSSI #19—Linnaeus Terrace, Asgaard Range, Victoria Land, Antarctica (access by helicopter)

Dates

January 1–20, 1995

Permit Application No. 95–016

3. *Applicant*

Bruce D. Sidell, Department of Zoology, 5751 Murray Hall, University of Maine, Orono, Maine 04469–5751

Activity for Which Permit is Requested

Enter Site of Special Scientific Interest

The applicant requests permission to enter the Western Bransfield Marine Site of Special Scientific Interest (MSSSI #35) and East Dallmann Bay Marine Site of Special Scientific Interest (MSSSI #36) for the purpose of collecting fish specimens by midwater and bottom trawling.

Location

MSSSI #35—Western Bransfield Strait, South Shetland Islands, and MSSSI #36—East Dallmann Bay, Brabant Island.

Dates

February 1, 1995–June 30, 1995

Permit Application No. 95–017

4. *Applicant*

G. Richard Harbison, Biology Department, Woods Hole Oceanographic Institute, Woods Hole, Massachusetts 02543

Activities for Which Permit is Requested

Enter Site of Special Scientific Interest

The applicant requests permission to enter the Western Bransfield Marine Site of Special Scientific Interest (MSSSI #35) and East Dallmann Bay Marine Site of Special Scientific Interest (MSSSI #35) for the purpose of collecting fish specimens, larval fishes and salps by using 18 ft. otter trawls, plankton nets, Mocness and scuba diving.

Location

MSSSI #35—Western Bransfield Strait, South Shetland Islands, and MSSSI #36—East Dallmann Bay, Brabant Island.

Dates

September 28, 1994–November 16, 1994

Permit Application No. 95–018

5. *Applicant*

Colin M. Harris, International Centre for Antarctic, Information and Research, P.O. Box 14–199, Christchurch, NEW ZEALAND

Activities for Which Permit is Requested

Enter Specially Protected Areas and Sites of Special Scientific Interest. The applicant proposes to enter Beufort Island (SPA #5), Cape Hallett (SPA #7), Cape Royds (SSSI #1), Arrival Heights (SSSI #2), Barwick Valley (SSSI #3), Cape Crozier (SSSI #4), North West White Island (SSSI #18) and Linnaeus Terrace (SSSI #19) in continuation of a joint U.S./N.Z. project to review management plans for protected areas in the Ross Sea region. At each site the 3–4 person team will describe and map geographical features, including important natural and historical features, evidence of human modifications, structures, markers, impacts, landing and access points and paths; document natural or human

features of special significance; describe scientific work being conducted in the area, its effects and influences; assess whether the area is continuing to serve the purpose for which it was designated, including re-assessment of boundaries and management objectives; and, use GPS to map boundaries and define designated photo points covering the most important features of the site as practical. Access to the sites will primarily be by helicopter, but may be on foot or by vehicle or ship, as appropriate. Access will comply with existing management plan provisions for each site.

Locations

Beufort Island (SPA #5), Cape Hallett (SPA #7), Cape Royds (SSSI #1), Arrival Heights (SSSI #2), Barwick Valley (SSSI #3), Cape Crozier (SSSI #4), North West White Island (SSSI #18) and Linnaeus Terrace (SSSI #19)

Dates

November 1, 1994–January 31, 1995

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

[FR Doc. 94–21813 Filed 9–2–94; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 17, No. 1).

Under the Energy Reorganization Act of 1974, which created NRC, an abnormal occurrence is defined as "an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety." NRC has made a determination that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the first calendar quarter of 1994. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

This report addresses seven abnormal occurrences (AOs) at NRC-licensed facilities. One involved inoperable main steam isolation valves at a boiling water reactor, four involved medical brachytherapy misadministrations, one involved a medical teletherapy misadministration, and one involved four lost reference sources. One AO that was reported by an Agreement State is also discussed; the information is current as of April 25, 1994. This event involved a therapeutic radiopharmaceutical misadministration. The report also contains updates on seven AOs previously reported by NRC licensees and one AO previously reported by an Agreement State licensee. For the period January 1 to March 31, 1994, no new "Other Events of Interest" were reported but an update to a previously reported therapeutic misadministration is included.

A copy of the report is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 17, No. 1 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD this 30th day of August, 1994.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 94–21861 Filed 9–2–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Palo Verde Nuclear Generating Station; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. 41, 51, and 74, issued to Arizona Public Services Company for operation of the Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, respectively, located in Maricopa County, Arizona.

The proposed amendment would add the analytical method supplement entitled "Calculative Methods for the CE Large Break LOCA Evaluation Model for the Analysis of CE and W Designed NSSS," CENPD–132, Supplement 3–P–A, dated June 1985, to the list of analytical methods in TS Section 6.9.1.10 used to determine the PVNGS core operating limits. Additionally, further administrative changes are proposed to the list of analytical methods.

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 considerations, which is presented below:

Standard 1—Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change is administrative in nature and does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident. The proposed change simply adds an NRC-approved LOCA [loss of coolant accident] evaluation methodology to the list of analytical methods used to determine core operating limits. The proposed change does not alter the conditions or assumptions in any of the UFSAR [Updated Final Safety Analysis Report] accident analyses. Since the UFSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed change. Therefore, it can be concluded that the proposed change to Section 6.9.1.10 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2—Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change is administrative in nature and does not involve any change to

the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting failure been identified as a result of the proposed change. Therefore, it can be concluded that the proposed change to Section 6.9.1.10 does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed change is administrative in nature in that an NRC-approved LOCA evaluation methodology is being added to the list of analytical methods used to determine core operating limits. Since the core operating limits are still being established by an NRC-approved methodology and will provide adequate core protection, the proposed amendment does not involve a significant reduction in a 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 of 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 October 6, 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 of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Theodore R. Quay: 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 petitioners 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)–(r) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 18, 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 Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 31st day of August 1994.

For the Nuclear Regulatory Commission.

Brian E. Holian,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–21863 Filed 9–2–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–424]

Georgia Power Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–68 issued to Georgia Power Company, Oglethorpe Power Corporation Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensee) for operation of the Vogtle Electric Generating Plant, Unit 1, located in Burke County, Georgia.

The proposed amendment would eliminate article 2.C(6) and the associated attachment 1 of the license. Article 2.C(6) references attachment 1 which lists special diesel generator (DG) maintenance and surveillance requirements.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The change to the license will delete license conditions related to DG component inspections that were imposed based on the recommendations in NUREG–1216. Therefore, the detailed steps of preventive maintenance surveillance programs will become subject to the same degree of NRC staff review and approval as for DGs provided by other manufacturers. However, future revisions of the maintenance surveillance program are subject to the provisions of 10 CFR 50.59. The owners group in conjunction with the DG manufacturer is developing a generic DG management program. The transition from the current program to the generic program will be accomplished under the provisions of 10 CFR 50.59.

The requirements imposed by attachment 1 to the license were in addition to the Technical Specifications surveillance and maintenance requirements for DGs in nuclear service. The requirements of attachment 1 were imposed due to the unresolved concerns about the reliability of TDI DGs that existed at the time of issuance of the VEGP Unit 1 license. Since that time the concerns have been resolved by substantial operational data and inspection results which have demonstrated that these DGs may be treated on a par with other DGs within the nuclear industry and subjected to the same standard regulations without the special requirements of NUREG–1216. The proposed change will result in continuing DG performance in accordance with NRC requirements for this function, and it is likely to result in improved availability. The current Technical Specification surveillance requirements will continue to assure that the DGs are proven at regular intervals to perform in accordance with NRC requirements. These license conditions have been technically justified on the basis of current reliability data and inspection results of operating TDI DGs throughout the last several years. The NRC staff has agreed with these conclusions as documented in the SER for the topical report.

The current DG maintenance and surveillance program for the VEGP DGs is in agreement with the applicable portions of the surveillance and maintenance programs described in the topical report and with the requirements of the Technical Specifications. Any subsequent changes to the surveillance and maintenance requirements currently contained in attachment 1 to the license following the removal of the attachment from the Operating License will be made in accordance with 10 CFR 50.59.

Based on the above considerations, GPC has concluded the following concerning 10 CFR 50.92.

1. The proposed change to the license does not involve a significant increase in the probability or consequences of an accident previously evaluated because the availability and reliability of the DGs will remain within the limits previously assumed in the safety analyses.

2. The proposed change to the license does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not result in any physical changes to the plant or in its modes of operation and the DGs have been demonstrated to operate at a level of reliability that is consistent with that which was previously determined to be acceptable for this application.

3. The proposed deletion from the license does not involve a significant reduction in a margin of safety because the results of the operational data and inspection reports have demonstrated that the license conditions are not required to assure that the DGs will be maintained in a state of reliability consistent with that assumed for the safety analyses.

The NRC staff has reviewed the licensee's analysis in conjunction with its cover letter, 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 October 6, 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 Burke County Public Library, 412 Fourth St., Waynesboro, Georgia 30830. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Herbert N. Berkow: 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 Arthur H. Domby, Troutman Sanders, Nations Bank Plaza, 600 Peachtree Street NE., Atlanta, Georgia 30308, 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 August 16, 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 Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 30th day of August 1994.

For the Nuclear Regulatory Commission.

Louis Wheeler,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–21862 Filed 9–2–94; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval of Collection of Information Under the Paperwork Reduction Act; Form 5500 Series—Annual Report of Employee Benefit Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB extension of approval.

SUMMARY: The Pension Benefit Guaranty Corporation has requested that the Office of Management and Budget approve an extension of the expiration date of a currently approved information collection (1212–0026) without any change in the substance or in the method of collection. Current approval expires on October 31, 1994. The information collection is contained in the IRS/DOL/PBGC Form 5500 series. These forms are used by pension plan administrators to fulfill the requirements under section 4065 of ERISA and 29 CFR Part 2611 that an annual report be filed with the PBGC. The effect of this notice is to advise the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Management and Budget, Paperwork Reduction Project (1212–0026), Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street NW., Washington, DC 20005–4026 between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget (OMB) with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of collections of information by Federal agencies (5 CFR Part 1320).

Section 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1365) and 29 CFR Part 2611 require the administrator of a defined benefit pension plan to file an annual report with the Pension Benefit Guaranty Corporation (PBGC) in order that PBGC may monitor the plan's yearly operations insofar as they relate to the termination insurance program under Title IV of ERISA. Other provisions in ERISA and the Internal Revenue Code (29 U.S.C. 1021(b) (4) and 26 U.S.C. 6058) require that annual reports be filed by administrators of employee benefit plans (including defined benefit pension plans) with the Department of Labor (DOL) and the Internal Revenue Service (IRS) for similar monitoring with respect to the ERISA requirements within their respective jurisdictions. DOL, IRS, and PBGC have established joint forms (the Form 5500 series) to be used for those annual reports.

When the appropriate form in the 5500 series is filed with the IRS, the filing requirement for each of the three agencies is satisfied; each agency utilizes the information applicable to it. In addition to general identifying information, the PBGC uses the coverage information reported on Form 5500 or Form 5500–C/R, and the actuarial information on Schedule B attached to the form, to fulfill its monitoring role.

OMB has previously approved the PBGC's collection of information contained in the Form 5500 series; PBGC is requesting an extension of that approval without any change in the substance or method of collection. The PBGC estimates that it will receive 106,407 reports annually, that the response to the portion of the forms allocated to the PBGC will take an average of .21 hours, and that the annual burden imposed by this information collection is 25,379 hours.

Issued at Washington, DC, this 26th day of August, 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–21892 Filed 9–2–94; 8:45 am]

BILLING CODE 7708–01–M

Request for Extension of Approval of Collection of Information Under the Paperwork Reduction Act; Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") has requested that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information requirements in its rules for the administration of multiemployer plans that have terminated by mass withdrawal (OMB control number 1212–0032; expires September 30, 1994). These rules include requirements for notices and applications submitted to the PBGC. The effect of this notice is to advise the public of the PBGC's request and solicit public comment on this collection of information.

ADDRESSES: All written comments (at least three copies) should be addressed to Office of Management and Budget, Paperwork Reduction Project (1212–0040), Washington, DC 20503. The PBGC's request for extension will be available for inspection at the PBGC's Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel, Pension Benefit

Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (29 U.S.C. 1001 *et seq.*). Part 2675 of the PBGC's regulations (29 CFR Part 2675), Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal, implements requirements of ERISA sections 4041A and 4281 (29 U.S.C. 1341A and 1441) for the administration of multiemployer plans that have terminated by mass withdrawal.

Under section 4041A, which governs the payment of benefits under such plans, the PBGC may authorize the payment of benefits in amounts or forms not otherwise permitted, and the plan sponsor must reduce benefits and suspend benefit payments in accordance with section 4281.

Under section 4281, if the annual valuation of such a plan shows that plan assets are not sufficient to satisfy all nonforfeitable benefits under the plan, the plan sponsor must amend the plan to eliminate benefits that are not eligible for the PBGC's guarantee to the extent necessary to ensure that plan assets are sufficient (as determined and certified in accordance with PBGC regulations) for all nonforfeitable benefits. If, after a plan has been so amended, the plan becomes insolvent (*i.e.*, unable to pay benefits when due for a plan year), the plan sponsor must suspend benefits in excess of guaranteed benefits to the extent that their payment cannot be supported by the plan's available resources. In addition, if the plan's available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from the PBGC (see also ERISA sections 4245(f) and 4261 (29 U.S.C. 1426 and 1431)).

To assure the consistency and adequate quality of required submissions, Part 2675 includes rules for notices of the adoption of a plan amendment reducing benefits and of any restoration of benefits (§§ 2675.23 and 2675.24), notices that a plan is, or will be, insolvent and annual updates (§§ 2675 34 and 2765.35), notices of insolvency benefit level (§§ 2675.36 and 2675.37), and applications for financial assistance if a plan is, or will be, unable to pay guaranteed benefits when due (§§ 2675.16 and 2675.38). Part 2675 also provides for the submission of an application for PBGC approval to pay benefits not otherwise permitted (§ 2675.17). The PBGC uses the information submitted in making statutory determinations and in identifying and estimating cash needs for financial assistance.

The PBGC is requesting that the Office of Management and Budget ("OMB") extend approval of this collection of information (OMB control number 1212–0032; expires September 30, 1994) for another three years. The PBGC estimates the total annual burden of these requirements at 427 hours: 10 hours for notices of insolvency and 8 hours for benefit reduction notices with respect to two plans; 4 hours for an application to pay benefits not otherwise permitted under one plan; and 36 hours for annual updates, 45 hours for notices of insolvency benefit level, and 324 hours for applications for financial assistance with respect to nine plans. (The PBGC expects to receive benefit restoration notices so infrequently that the number per year is assumed to be zero.) These estimates are averages that, among other things, take into account PBGC assumptions about increases in the number of insolvent plans over time.

Issued in Washington, DC, this 29th day of August 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–21893 Filed 9–2–94; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34608; File Nos. SR–MCC–94–07 and SR–MSTC–94–09]

Self-Regulatory Organizations; Midwest Clearing Corporation and Midwest Securities Trust Company; Order Approving Proposed Rule Changes Relating to Corporate Governance

August 26, 1994.

On June 23, 1994, the Midwest Clearing Corporation ("MCC") and the Midwest Securities Trust Company ("MSTC") submitted proposed rule changes (File Nos. SR–MCC–94–07 and SR–MSTC–94–09) to the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposals appeared in the **Federal Register** on July 29, 1994, to solicit comment from interested persons.[2] No comments were received by the Commission. This order approves the proposals.

I. Description of the Proposal

The purpose of the proposed rule changes is to change MCC's and MSTC's By-laws to correspond to changes that are being made simultaneously to the Constitution of the Chicago Stock Exchange, Incorporated ("CHX"), the parent corporation of MCC and MSTC.[3] Once all the changes are approved and implemented, the boards of directors of MSTC and MCC and the board of governors of the CHX will consist of the same individuals. The changes are being made in order to achieve a governance structure where CHX, MCC, and MSTC will operate more as a single business entity.

In order to ensure fair and meaningful representation of MCC's and MSTC's participants in the governance process, the size of the complex's board is being increased to thirty-one to accommodate, among other things, a new category of board member, called participant governors, to provide the board with expertise on issuances affecting MCC and MSTC.[4] The four participant governor positions must be filled by general partners or officers of a participant in MCC or MSTC and must have securities clearance and settlement expertise, background, or responsibilities. In addition, there will be one position added to the board which must be filled by a person who is not a CHX member.

In order to implement the purpose of the rule changes, MCC is amending Article 3, Sections 3.1 and 3.3 of its By-laws to change the number of directors from twenty-six to thirty-one and to require the nominating committee to select candidates with a view towards providing fair representation not only for the interests of a cross-section of MCC's participations but also for the interests of the CHX. MCC is amending Article 4A.1 to provide that the composition of MCC's nominating committee will be the same as that of CHX's nominating committee. MCC is amending Article 5, Sections 5.1 and 5.3 to empower the chairman instead of the board of directors to appoint and remove all officers and agents.

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 34427 (July 21, 1994), 59 FR 38653.

[3] Securities Exchange Act Release No. 34563 (August 19, 1994) [File No. SR–CHX–94–15] (order approving proposed rule changes).

[4] Under the previous structure, CHX's board consisted of twenty-six members, MCC's board consisted of twenty-seven members, and MSTC's board consisted of eighteen members.

MSTC is amending Article II, Sections 1 and 2 of its By-laws to provide for more flexibility in the timing of the annual meeting and to add the chairman as one who can call special meetings of the shareholders. MSTC is amending Article III, Section 2 to change the number of directors from eighteen to thirty-one, to change from sixty to thirty-one the minimum number of days before each annual shareholder meeting that the nominating committee must submit nominations to the board, to require ten participants signatures instead of three to nominate persons for the board in addition to those nominated by the nominating committee, and to require the nominating committee to elect candidates with a view towards providing fair representation not only for the interests of a cross section of MSTC participants but also for the interests of CHX. MSTC is amending Section 8 to provide that any vacancy on the board shall be filled by a majority of the directors then in office instead of by election at the annual meeting or special meeting by shareholders. MSTC also is amending Article IV, Section 4 to provide that the nominating committee of MSTC will be composed of the same members as the CHX's nominating committee and is amending Article 5, Sections 1, 2, and 5 to empower the chairman instead of the board of directors to appoint and dismiss all officers and agents.

Furthermore, the changes to MCC's and MSTC's By-laws will make the president and chief executive officer ("CEO") of CHX the chairman of the MCC and MSTC boards ex-officio and an ex-officio member of the boards with the right to vote. Also, the presidents of MSTC and MCC will be the CEOs of MSTC and MCC, respectively but will not be board members ex-officio. The vice-chairmen of MCC and MSTC will be ex-officio members of the boards of MCC and MSTC, respectively, with the right to vote.

II. Discussion

The Commission believes the proposals are consistent with the purposes and requirements of Section 17A of the Act.[5] Sections 17A(b)(3)(C) require that the rules of a clearing agency be designed to assure a fair representation of its members and participants in the selection of its directors and administration of its affairs.[6]

The Commission states in the order granting MCC and MSTC registration as clearing agencies that at a minimum, fair representation requires that the entity responsible for nominating individuals for membership on a clearing agency's board of directors should be obligated by By-law or Rule to make nominations with a view toward assuring fair representation of the interests of shareholders and of a cross section of the community of participants.[7] Under MCC's and MSTC's corporate governance structures, CHX, as the sole shareholder of MCC and MSTC, retained the sole vote for MCC's and MSTC's boards of directors. In order to satisfy the minimum fair representation requirement, MCC and MSTC established separate nominating committees comprised of their participants to nominate individuals for membership on their board of directors.

Under the revised By-laws, CHX will continue to have the sole vote for members of the complex's board. To provide the necessary framework of fair representation for their participants, the combined CHX/MCC/MSTC nominating committees are required to select candidates with a view towards providing fair representation for CHX, the sole shareholder of MCC and MSTC, and fair representation of a cross section of participants. To further ensure the fair representation of MCC and MSTC participants, CHX's rule change establishes four participant governor slots which must be filled by MCC and MSTC members and requires that individuals nominated to serve as participant governors have expertise on issues affecting MCC and MSTC.

To assist the Commission in its assessment of any long term effects the corporate governance restructing might have on the fair representation of MCC and MSTC participants in the selection of the complex's board, MCC and MSTC will provide to the Commission after the first election under the new corporate governance structure a list of the governors of the complex's board. The list will set forth the board slot each governor is filling (*e.g.*, participant governor, floor governor, upstairs governor) and a list of the complex entities (*e.g.*, CHX, MCC, and MSTC) to which each governor is a member. MCC and MSTC will submit such a report after each annual shareholders meeting and after any change in the composition of the complex's board for the next five years.

The rule changes also should facilitate the three entities ability to operate as a single business entity and thereby should promote efficiency in the management of the complex. As a result of the above restructuring, the clearance and settlement and depository processes should benefit from greater coordination among CHX, MCC, and MSTC. In addition to having a unified board and nominating committee, cooperation and coordination will be advanced by having, among other things, the president and CEO of CHX serve on the MCC and MSTC boards as the chairman ex-officio and as an ex-officio with the right to vote.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposal is consistent with the requirements of the Act, particularly with Section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the above-mentioned proposed rule changes (File Nos. SR–MCC–94–07 and SR–MSTC–94–09) be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–21811 Filed 9–2–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34607; File No. SR–MSRB–94–13]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Depository Eligibility of New Issue Municipal Securities

August 26, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 17, 1994, the Municipal Securities Rulemaking Board ("MSRB") 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 primarily by MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78q–1(b)(3)(C) (1988).

[7] Securities Exchange Act Release No. 20221 (October 3, 1983), 48 FR 4518, [File No. 600–1] (order granting full registration as clearing agencies to MCC and MSTC).

[8] 15 U.S.C. 78s(b) (1988).

[9] 17 CFR 200.30–3(a)(30) (1993).

[1] 15 U.S.C. § 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend MSRB Rule G–34 on CUSIP Numbers and Dissemination of Initial Trade Date Information concerning depository eligibility of new issue municipal securities. MSRB requests that the Commission delay the effectiveness of the proposed rule change until sixty (60) days after Commission approval to allow dealers to adjust their underwriting procedures to obtain compliance.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSRB 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 texts of these statements may be examined at the places specified in Item IV below. MSRB 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

On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act, which establishes three business days after the trade date ("T+3") instead of five business days ("T+5") as the standard settlement timeframe for most broker-dealer transactions.[2] The rule becomes effective June 1, 1995. Although municipal securities were not included within the scope of Rule 15c6–1, the Commission did request that MSRB provide a plan for implementing T+3 settlement in the municipal securities market.[3] In response, MSRB submitted to the Commission its Report of the Municipal Securities Rulemaking Board on T+3 Settlement for the Municipal Securities Market (March 17, 1994) ("T+3 Report"). The T+3 Report detailed changes in operational practices and regulatory actions that would be necessary in a T+3 environment for municipal securities.

The T+3 Report discussed the need for changes concerning the use of physical securities certificates to settle interdealer and institutional customer transactions. Because these transactions are settled on a delivery vs. payment or receipt vs. payment ("DVP/RVP") basis, it is critical that the delivery of securities be made in a timely manner on settlement date. The physical delivery of securities certificates, however, is a relatively time-consuming and inefficient practice as compared to book-entry delivery through a securities depository. A shortened settlement cycle will provide dealers, institutional customers, and their clearing agents with considerably less time to deal with the processing requirements and inevitable problems that arise in connection with transportation, delivery, and acceptance of physical securities certificates.

In 1993, MSRB amended MSRB Rules G–12(f)(ii) and G–15(d)(iii) to require essentially all interdealer and institutional customer transactions to be settled by book-entry when the securities involved in the transactions are listed as eligible for deposit in a depository. While these rules have assisted the municipal securities industry in moving toward more universal use of book-entry settlement, the rules only apply to transactions in securities that are depository-eligible.

The proposed rule change will facilitate book-entry settlement of transactions in municipal securities by requiring, with limited exceptions, dealers acquiring new issue municipal securities to apply for depository eligibility. This requirement will serve to ensure that the great majority of new issue municipal securities are made depository eligible. As a result, the number of interdealer and institutional customer transactions that must be settled by book-entry under MSRB Rules G–12(f)(ii) and G–15(d)(iii) will greatly increase. This will facilitate the conversion to T+3 settlement and will enhance the efficiency of clearance and settlement of municipal securities by reducing the number of physical deliveries of interdealer and institutional customer transactions in favor of book-entry settlement.

Under the proposed rule change, brokers, dealers, and municipal securities dealers will be required to apply for depository eligibility within one business day of the date of sale of a new issue municipal security.[4] The proposed rule change will exempt (1) issues not meeting the eligibility criteria of all depositories that accept municipal securities for deposit and (2) issues maturing in sixty days or less. The proposed rule change also will provide an exemption until July 1, 1996, for issues under $1 million in par value. MSRB has adopted the rule change pursuant to Section 15B(b)(2)(C) of the Act, which provides that MSRB has the authority to adopt rules:

> To foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.***

As noted above, MSRB believes that the proposed rule change will facilitate clearance and settlement of municipal securities and, therefore, is consistent with the provisions of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSRB does not believe that the rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will apply equally to all brokers, dealers, and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In March 1994, MSRB requested comment on a draft amendment to Rule G–34 that would require dealers to apply for depository eligibility of all new issue municipal securities. The draft amendment included exemptions for issues not meeting the criteria set by depositories for eligibility and for new issues under $1 million in par value. MSRB received ten comment letters in response to the draft amendments.[5] The comments were generally supportive; however, some commenters suggested modifications to the draft amendments.

The Ten-day Application Period

The draft amendment would have required dealers to apply to a depository at least ten days prior to the closing date of a new issue to establish depository eligibility. This provision was intended to support the routine practice recommended by depositories even though depositories can and do make new issues eligible on shorter notice

[2] Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[3] Letter from Arthur Levitt, Chairman, SEC, to David Clapp, Chairman, MSRB (October 7, 1993).

[4] For competitively sold issues, the date of award from the issuer is considered the date of sale. For negotiated issues, the date of execution of the contract to purchase the securities from the issuer is considered the date of sale.

[5] Letters from A.G. Edwards & Sons, Inc.; The Cashiers' Association of Wall Street, Inc.; Fleet Securities; Goldman, Sachs & Co.; The New York Clearing House; The Public Securities Association; The Regional Municipal Operations Association; The Securities Industry Association; Summers & Company, Inc.; and Dean Witter Reynolds, Inc.

when it is necessary. A majority of commenters, however, believe that the ten day application period is inappropriate for an MSRB rule in light of the need of underwriters occasionally to settle a new issue with an issuer on short notice. Three commenters proposed a different approach that would tie the application requirement to the date of sale rather than the date of closing. These commenters suggested that the provision be changed to require the application to be made within twenty-four hours of the award of the issue.

MSRB notes that this suggestion will avoid potential problems that might occur in the occasional cases in which there is less than ten days between the date of award of a competitively sold issue and the settlement of the issue. At the same time, the requirement for underwriters to apply to a depository on the day after the date of sale gives depositories the maximum amount of time available to establish eligibility and prepare for a book-entry distribution. Therefore, MSRB has included in the proposed rule change a provision requiring that the application to a depository must be made within one business day of the date of sale of the issue. The proposed rule change also includes a requirement that if the full documentation and information required to establish depository eligibility is not available from the underwriter at the time the initial application is submitted to the depository, the underwriter shall forward such documentation to the depository as soon as it is available.

Exemption Until July 1, 1996, for Issues Under $1 Million in Par Value

The draft amendment included exemptive language for issues under $1 million in par value. This exemption was included because of concerns that had been expressed by some dealers relating to their desire to continue to use physical settlements for small issues with limited distribution. Eight commenters urged MSRB to include issues under $1 million in par value within the rule with most citing the need for increased settlement efficiencies offered by book-entry when T+3 becomes effective. Two commenters suggested a temporary exemption for small issues and noted that ultimately all issues should be included within the scope of the rule but that some underwriters of small issues may need time to adjust their procedures associated with clearance and settlement of small issues. MSRB believes that this is a reasonable approach and has adopted a provision in the proposed rule change that will exempt issues under $1 million in par value until July 1, 1996.

Four commenters suggested that a reduction in depository application fees would reduce the need for an exemption for small issues. MSRB, however, has no authority to change the fees charged by depositories.

Exemption for Issues Maturing in Sixty Days or Less

Three commenters suggested an exemption for issues maturing in sixty days or less and noted that these issues typically do not trade in the secondary market. MSRB is not aware of any substantial trading in such short-term securities and agrees that an exemption for issues maturing in sixty days or less would be appropriate. The exemption accordingly has been included within the proposed rule change.

Other Suggested Exemptions

One commenter suggested exempting leases, notes, and bonds sold to nondepository participants. MSRB is not aware of any reason that these types of securities should be treated differently than other municipal securities. It accordingly has not provided exemptions for these types of issues in the proposed rule change.

Depository Eligibility Criteria

MSRB understands that of the three depositories accepting municipal securities for deposit, the eligibility criteria is essentially the same and that nearly all municipal securities meet the criteria for depository eligibility. If, however, an issue could not be made eligible at any of these depositories, the proposed rule change will not require the underwriter to make an application.[6] One commenter urged that depositories reach agreement on uniform minimum guidelines to minimize the burden on underwriters and inefficiencies that might be caused by any differing eligibility criteria among the depositories., While MSRB agrees with this goal, MSRB does not have regulatory authority over depositories. MSRB will continue to monitor any problems created by differing eligibility criteria and may suggest remedial actions to the Commission in the future if differing eligibility criteria create problems under the proposed rule change.

[6] The exception in the proposed rule change for new issues that do not meet a depository's eligibility criteria is necessary because the terms of a new issue ultimately are controlled by the issuer of the securities, which is not subject to MSRB rules.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so filing 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.

MSRB requests that the Commission delay effectiveness of the proposed rule change until sixty days after Commission approval to allow dealers to adjust their underwriting procedures to obtain compliance.

IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People 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 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 Room, 450 Fifth Street NW., Washington, DC. 20549. Copies of the filing will also be available for inspection and copying at MSRB's principal offices. All submissions should refer to File No. SR–MSRB–94–13 and should be submitted by September 27, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–21812 Filed 9–2–94; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2728; Amendment #4]

Georgia; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with notices from the Federal Emergency Management Agency dated August 16 and August 23, 1994, to include Oglethorpe County in the State of Georgia as a disaster area as a result of damages caused by severe storms and flooding resulting from Tropical Storm Alberto beginning on July 3, 1994 and continuing through July 25, 1994, and to extend the deadline for filing applications for physical damages. The deadline is hereby extended thirty days to October 4, 1994.

In addition, application for economic injury loans from small businesses located in the contiguous counties of Clarke, Elbert, Greene, Madison, Oconee, Taliaferro, and Wikes in the State of Georgia may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for economic injury is April 7, 1995.

The economic injury number for Georgia is 829300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 30, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–21837 Filed 9–2–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Area #8320]

Washington; Declaration of Disaster Loan Area

Clallam, Grays Harbor, and Snohomish Counties and the contiguous counties of Chelan, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Skagit, and Thurston in the State of Washington constitute an economic injury disaster loan area due to the effects of the warm water currents known as El Nino on the 1994 salmon harvest. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 26, 1995 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 26, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–21838 Filed 9–2–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice No. 2064]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Fire Protection; Notice of Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on September 28, 1994 at 10:00 A.M. in Room 4315 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. The purpose of the meeting will be to discuss the outcome of the 39th Session of the International Maritime Organization (IMO) Subcommittee on Fire Protection (FP), held on June 27, 1994.

The meeting will focus on proposed amendments to SOLAS for the fire safety of commercial vessels. Specific discussion areas include: Smoke and toxicity, closing mechanisms of fire doors, revision of assembly resolution A.373/Rev. 2, heat radiation through windows and glass partitions, automatic sprinkler systems and fixed water spraying systems, high speed craft, criteria for maximum fire loads, guidelines for performance and testing criteria and surveys of foam concentrates, phasing out of halons, interpretations and amendments to SOLAS 74, role of the human element in maritime casualties, smoke control and ventilation, fire safety aspects of composite materials used on board ships, and matters relating to tanker safety.

Members of the public may attend up to the seating capacity of the room. For further information regarding the meeting of the SOLAS Working Group on Fire Protection contact Mr. Jack Booth at (202) 267–2997.

Dated: August 25, 1994.

Marie Murray,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94–21801 Filed 9–2–94; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2071]

Director General of the Foreign Service and Director of Personnel; State Department Performance Review Board Members (At Large Board and OIG Board)

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following individuals to the State Department Performance Review Board (At large Board) register.

Eileen K. Binns, Director of the Office of Administration, Bureau of Management, United States Information Agency

William L. Camp, Associate Director, Passport Services, Bureau of Consular Affairs, Department of State

Kathleen J. Charles, Executive Director, Bureau of Diplomatic Security, Department of State

Thomas Fingar, Deputy Assistant Secretary, Bureau of Intelligence and Research, Department of State

James G. Hergen, Assistant Legal Adviser, Office of the Legal Adviser, Department of State

The Acting Inspector General of the Department of State has appointed the following individuals to the State Department Office of the Inspector General Performance Review Board register.

Kenneth Hunter, Executive Director, Foreign Service Institute, Department of State

Jane Tebbutt, Assistant Inspector General for Management and Policy, Department of Health and Human Services

Harvey D. Thorp, Assistant Inspector General for Audits, Office of Personnel Management.

Dated: August 29, 1994.

A. Peter Burleigh,

Acting Director General of the Foreign Service and Director of Personnel.

[FR Doc. 94–21850 Filed 9–2–94; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974 DOT/ALL 11 Integrated Personnel and Payroll System (IPPS) System of Records

The Department of Transportation (DOT) herewith publishes a notice of proposal to replace the DOT/FAA 806, Federal Aviation Administration (FAA) Employee Payable System and DOT/OST 034, Personnel Records systems of records with DOT/ALL 11 Integrated

Personnel and Payroll System (IPPS) system of records. The proposed system does not duplicate any existing agency or government-wide systems of records.

Any person or agency may submit written comments on the proposed IPPS system of records to the Office of Secretary, M–39, ATTN: Mr. Carl Creager, 400 Seventh Street SW., Washington, DC 20590. Comments to be considered must be received by October 5, 1994.

If no comments are received, the proposed changes will become effective 40 days from the date of issuance. If comments are received, the comments will be considered and, where adopted, the document will be republished with the changes.

Issued in Washington, DC, August 25, 1994.

Paul Weiss,

Deputy Assistant Secretary for Administration.

Narrative Statement for the Department of Transportation, Office of the Secretary

The Office of the Secretary of Transportation proposes to replace two systems of records, DOT/FAA 806, Federal Aviation Administration Employee Payable System and DOT/OST 034, Personnel Records with DOT/ALL 11 Integrated Personnel and Payroll System (IPPS) system of records.

The purpose of this Notice is to update and align DOT's payroll and personnel systems of records with the IPPS personnel and payroll integrated database. The IPPS database is a product of IPPS, an integrated personnel and payroll management information system currently under development. The first phase of the system will begin in August 1994. The possibility of adverse effects of this proposal concerning privacy interests of the general public is minimal as the new system combines the information currently held in DOT/FAA 806 and DOT/OST 034 systems of record. A description of the steps taken to safeguard these records is given under the appropriate heading of the Federal Register system of records. The changes include amendments to: System number, system name, security classification, system location, categories of individuals covered by the system, categories of records in the system, authority for maintenance of the system, routine uses of records maintained in the system including categories of users and the purposes of such uses, disclosure to consumer reporting agencies, policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system, retrievability, safeguards, retention and disposal, systems managers and address, notification procedure, record access procedures, contesting record procedures, record source categories. The authority for maintenance of the system is 5 U.S.C. 2957 and 5 U.S.C. 2954. The purpose of this report is to comply with the Office of Management and Budget Circular, A–130, Appendix I, dated July 15, 1994.

DOT/ALL 11

SYSTEM NAME:

Integrated Personnel and Payroll System (IPPS)

SECURITY CLASSIFICATION:

Unclassified Sensitive

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), 400 7th Street SW., Washington, DC 20590; working copies of certain of these records are held by OST, all DOT Operating Administrations, Office of the Inspector General (OIG), and the National Transportation Safety Board (NTSB). (DOT provides personnel and payroll services to NTSB on a reimbursable basis, although NTSB is not a DOT entity. This is done for economy and convenience since both organizations' missions are transportation oriented and located in the same geographic areas.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, present, and former employees in the Office of the Secretary of Transportation (OST), Bureau of Transportation Statistics (BTS), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Maritime Administration (MARAD), National Highway Traffic Safety Administration (NHTSA), Office of the Inspector General (OIG), Research and Special Programs Administration (RSPA), St. Lawrence Seaway Development Corporation (SLSDC), National Transportation Safety Board (NTSB), and civilian employees of the United States Coast Guard (USCG).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains those records required to insure that an employee receives his or her pay and personnel benefits as required by law. It includes, as appropriate: Service Record, Employee Record, Position Identification Strip, Claim for 10-Point Veteran Preference, Request for Referral Eligibles, Request and Justification for Selective Factors and Quality Ranking Factors, Certification of Insured Employee's Retired Status (Federal Employees' Group Life Insurance (FEGLI)), Notification of Personnel Action, Notice of Short-Term Employment, Request for Insurance (FEGLI), Designation of Beneficiary (FEGLI), Notice of Conversion Privilege, Agency Certification of Insurance Status (FEGLI), Request for Approval of Non-Competitive Action, Appointment Affidavits, Declaration of Appointee, Agency Request to Pass Over a Preference Eligible or Object to an Eligible, Official Personnel Folder, Official Personnel Folder Tab Insert, Incentive Awards Program Annual Report, Application for Leave, Monthly Report of Federal Civilian Employment, Payroll Report of Federal Civilian Employment, Semi-annual Report of Federal Participation in Enrollee Programs, Request for Official Personnel Folder (Separated Employee), Statement of Prior Federal Civilian and Military Service, Personal Qualifications Statement, Continuation Sheet for Standard Form 171 "Personal Qualifications Statement", amendment to Personal Qualifications Statement, Job Qualifications Statement, Statement of Physical Ability for Light Duty Work, Request, Authorization, Agreement and Certification for Training, United States (U.S.) Government Payroll Savings Plan—Consolidated Quarterly Report, Financial Disclosure Report, Information Sheet—Financial Disclosure Report, Payroll for Personal Services, Pay Receipt for Cash Payment—Not Transferable, Payroll Change Slip, Payroll for Personal Service—Payroll Certification and Summary—Memorandum, Record of Leave Data, Designation of Beneficiary—Unpaid Compensation of Deceased Civilian Employee, U.S. Savings Bond Issue File Action Request, Subscriber List for Issuance of United States Savings Bonds, Request for Payroll Deductions for Labor Organization Dues, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Labor Organization dues, Request by Employee for Payment of Salaries or Wages by Credit to Account at a Financial Organization, Designation of Beneficiary—Unpaid Compensation of Deceased Civilian Employee, U.S. Savings Bond Issue File Action Request, Subscriber List for Issuance of United States Savings Bonds, Request for Payroll Deductions for Labor Organization Dues, Revocation of Voluntary Authorization for Allotment

of Compensation for Payment of Labor Organization Dues, Request by Employee for Payment of Salaries or Wages by Credit to Account at a Financial Organization, Authorization for Purchase and Request for Change: U.S. Series EE Savings Bond, Request by Employee for Allotment of Pay for Credit to Savings Accounts with a Financial Organization, Application for Death Benefits—Civil Service Retirement System, Application for Retirement—Civil Service Retirement System, Superior Officer's Statement in Connection with Disability Retirement, Physician's Statement for Employee Disability Retirement Purposes, Transmittal of Medical and Related Documents for Employee Disability Retirement, Request for Medical Records (To Hospital or Institution) in Connection with Disability Retirement, Application for Refund of Retirement Deductions, Application to Make Deposit or Redeposit, Application to Make Voluntary Contribution, Request for Recovery of Debt Due the United States (Civil Service Retirement System), Register of Separations and Transfers—Civil Service Retirement System, Register of Adjustments—Civil Service Retirement System, Annual Summary Retirement Fund Transactions, Designation of Beneficiary—Civil Service Retirement System, Health Benefits Registration Form—Federal Employees Health Benefits Program, Notice of Change in Health Benefits Enrollment, Transmittal and Summary Report to Carrier—Federal Employees Health Benefits Program, Report of Withholding and Contributions for Health Benefits, Group Life Insurance, and Civil Service Retirement, Report of Withholdings and Contributions, Employee Service Statement, Election of Coverage and Benefits, Designation of Beneficiary, Position Description, Inquiry for United States Government Use Only, Application for Retirement—Foreign Service Retire System, Designation of Beneficiary, Application for Refund of Retirement Contributions (Foreign Service Retirement System), Election to Receive Extra Service Credit Towards Retirement (or Revocation Thereof), Application for Service Credit, Employee Suggestion Form, Meritorious Service Increase Certificate, Foreign Service Emergency Locator Information, Leave Record, Leave Summary, Individual Pay Card, Time and Attendance Report, Time and Attendance Report (For Use Abroad).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are maintained for control and accountability of: Pay and allowances; permanent and temporary pay changes; pay adjustments; travel advances and allowances; leave balances for employees; earnings and deductions by pay periods, and pay and earning statements for employees; management information as required on an ad hoc basis; payroll checks and bond history; union dues; withholdings to financial institutions, charitable organizations and professional associations; summary of earnings and deductions; claims for reimbursement sent to the General Accounting Office (GAO); federal, state, and local taxes withholdings; and list of FICA employees for management reporting. See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12)

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1982 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage is on magnetic disks, magnetic tape, microforms, and paper forms in file folders.

RETRIEVABILITY:

Retrieval from the system is by social security number, employee number, organization code, or home address; these can be accessed only by individuals authorized such access.

SAFEGUARDS:

Computers provide privacy and access limitations by requiring a user name and password match. Access to decentralized segments are similarly controlled. Only those personnel with a need to have access to the system are given user names and passwords. Data are manually and/or electronically stored in locked rooms with limited access.

RETENTION AND DISPOSAL:

The IPPS records are retained and disposed in compliance with the General Records Schedules, National Archives and Records Administration, Washington, DC 20408. The following schedules apply: General Records Schedule 1, Civilian Personnel Records, Pages 1 thru 22, Items 1 through 39; and General Records Schedule 2, Payrolling and Pay Administration Records, Pages 1 thru 6, Items 1 thru 28.

SYSTEM MANAGER(S) AND ADDRESS:

For personnel-related issues, contact Chief, Strategic Planning/Systems Division (M–15) and, for payroll-related issues, contact Chief, Financial Management Staff (B–35) at the following address: U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the system manager.

RECORD ACCESS PROCEDURES:

Same as "System Manager".

CONTESTING RECORD PROCEDURES:

Same as "System Manager". Correspondence contesting records must include the full name and social security number of the individual concerned and documentation justifying the claims.

RECORD SOURCE CATEGORIES:

Data are collected from the individual employees, time and attendance clerks, supervisors, official personnel records, personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from the Departmental Accounting and Financial Information System system of records.

[FR Doc. 94–21890 Filed 9–2–94; 8:45 am]
BILLING CODE 4910–62–P–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting on Airport Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss airport certification issues.

DATES: The meeting will be held on September 30, 1994, at 9:30 a.m. Arrange for oral presentations by September 20, 1994.

ADDRESSES: The meeting will be held at FAA Headquarters, Conference Room 827, 8th Floor, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Carolina E. Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on September 30, 1994, at the FAA Headquarters Building, Conference Room 827, 800 Independence Avenue SW., Washington, DC 20591.

The agenda will include:

- Committee administration.
- Consideration of a proposed tasks: (1) To consider NTSB Recommendation Number A–94–27, that would require all part 139 airports to perform runway friction tests regularly, and (2) to issue an NPRM that would require airports certificated under part 139 to install Runway Distance Remaining Signs on certain runways serving air carrier aircraft.
- A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by September 20, 1994, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on August 30, 1994.

Robert E. David,

Assistant Executive Director for Airport Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–21885 Filed 9–2–94; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

Inventory of U.S.-Flag Launch Barges

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Inventory of Coastwise Trade Launch Barges, reported as of August 4, 1988.

SUMMARY: The Maritime Administration is updating its inventory of U.S.-Flag launch barges having a capacity of less than 12,000 long tons that are qualified to engage in the coastwise trade. Additions, changes and comments to the list are requested.

DATES: Any comments on this inventory should be submitted in writing to the contact person by October 6, 1994.

FOR FURTHER INFORMATION CONTACT: Paul Ackerman, U.S. Department of Transportation, Maritime Administration, MAR 852 Room 7301, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–4374.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1(b)(3) of Pub. L. No. 100–329, enacted June 7, 1988, an updated inventory of U.S.-Flag launch barges having launch capacity of less than 12,000 long tons that were qualified to engage in the coastwise trade, was reported and published in the **Federal Register** on August 9, 1988. (53 FR 29980)

It is now desirable to update and republish that list. MARAD invites comments, additions or changes concerning the completeness, timeliness and accuracy of the inventory dated August 4, 1988, incorporated hereinafter.

By Order of the Maritime Administrator.

Dated: August 30, 1994.

Joel C. Richard,

Acting Secretary, Maritime Administration.

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS

Vessel name	Owner	Built	Length (Ft.)	Beam (Ft.)	Depth (Ft.)	Reported		Approx Launch Capacity (L.T.)	Volume ($Ft.^3$)	Estimated full load displace (L.T.)	Ratio displace/ launch cap
						GRT ($T.^3$)	DWT L.T.				
MWB–403	MWB, Inc	1979	400	105	25	9,561	17,954	6,300	1,050,000	23,718	3.8
Ocean Launcher	Offshore Pipelines, Inc.	1966	380	100	25	8,581	12,260	8,000	950,000	21,714	3.7
McDermott Oceanic No. 91*	Babcock & Wilcox	1964	402	90	22	6,718	6,600	4,500	795,960	18,193	4.0
Intermac 404*	Babcock & Wilcox	1976	300	90	20	3,309	8,000	4,200	540,000	12,343	4.0
McDermott Tidelands 021*	Babcock & Wilcox	1980	240	72	17	2,180	4,700	2,200	293,760	6,715	2.5
Cordova	Crowley	1969	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Juneau	....do	1970	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Kenai	....do	1968	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Ketchikan	....do	1970	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Kodiak	....do	1965	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
McKinley	....do	1969	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Nikiski	....do	1968	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Palmer	....do	1968	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Malolo	....do	1968	400	76	20	5,051	8,090	4,900	531,615	10,367	2.1
Isla Bonita	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Isla Del Sol	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
St. Thomas	....do	1970	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 400	....do	1970	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 406	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 407	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 408	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1

REPORTED COASTWISE-QUALIFIED LAUNCH BARGES WITH LAUNCH CAPACITY LESS THAN 12,000 LONG TONS—Continued

Vessel name	Owner	Built	Length (Ft.)	Beam (Ft.)	Depth (Ft.)	Reported		Approx Launch Capacity (L.T.)	Volume ($Ft.^3$)	Estimated full load displace (L.T.)	Ratio displace/ launch cap
						GRT ($T.^3$)	DWT L.T.)				
Barge 409	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 410	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 411	....do	1974	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 414	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 415	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 416	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 417	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 419	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Barge 420	....do	1975	400	99	20	6,643	11,290	6,600	705,810	13,732	2.1
Lanai	....do	1976	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Molokai	....do	1976	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–2	....do	1976	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–3	....do	1976	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–4	....do	1976	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–6	....do	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–7	....do	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–8	....do	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–9	....do	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–10	....do	1981	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 450–11	....do	1982	400	99	25	8,914	15,178	8,000	864,080	18,418	2.3
Barge 500–1	....do	1982	400	99	20	7,171	11,824	8,500	753,270	14,770	1.97
Barge 500–2	....do	1983	400	99	20	7,171	11,824	8,500	753,270	14,770	1.97
Barge 500–3	....do	1983	400	99	20	7,171	11,824	8,500	753,270	14,770	1.97
Barge 500–4	....do	1983	400	99	20	7,171	11,824	8,500	753,270	14,770	1.97

*Coastwise Qualified, but presently restricted to proprietary use under Section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. Section 883–1).

[FR Doc. 94–21810 Filed 9–2–94; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Department of Veterans' Affairs Geriatrics and Gerontology Advisory Committee has been renewed for a 2-year period beginning August 3, 1994, through August 3, 1996.

Dated: August 24, 1994.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–21855 Filed 9–2–94; 8:45 am]
BILLING CODE 8320–01–M

Cooperative Studies Evaluation Sub-Committee of the Advisory Committee for Cooperative Studies, and Health Services and Rehabilitation Research and Development; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Cooperative Studies Evaluation Sub-Committee of the Advisory Committee for Cooperative Studies, and Health Services and Rehabilitation Research and Development will be held at the Royal Sonesta Hotel, 5 Cambridge Parkway, Cambridge, Massachusetts, on October 4–5, 1994. The session on October 4 is scheduled to begin at 7:30 a.m. and end at 5:30 p.m. and on October 5 from 7:30 a.m. to 1:00 p.m. The meeting will be for the purpose of reviewing five new clinical trials, one on varicella vaccine; one on prevention of osteoporotic fractures, one on treatment of atrial fibrillation; one on coronary artery revascularization; one on treatment of dysphagia from stroke and the progress of one on-going study on extracapscular cataract extraction.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room from 7:30 a.m. to 8:00 a.m. on both days to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Sub-Committee of the Advisory Committee for Cooperative Studies, and health Services and Rehabilitation Research and Development, Department of Veterans Affairs, Washington, DC, (202–535–7154), prior to September 20, 1994.

The meeting will be closed from 8 a.m. to 5:30 p.m. on October 4, 1994, and from 8 a.m. to 1:00 p.m. on October 5, 1994, for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting

the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 24, 1994.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–21856 Filed 9–2–94; 8:45 am]

BILLING CODE 8320–01–M

Veterans' Advisory Committee on Education; Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on September 23, 1994, from 8:30 a.m. to 4:30 p.m. The meeting will take place at the Department of Veterans Affairs, 1800 G St. NW, Washington, DC, in Room 601V. The purpose of the meeting will be to discuss Veterans Affairs education issues.

The meeting will be open to the public up to the seating capacity of the conference room. Due to the limited seating capacity, it will be necessary for those wishing to attend to contact Mrs. Celia P. Dollarhide, Director, Education Service, (phone 202–273–7132) prior to September 19, 1994.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 10:00 a.m. on September 23, 1994.

Dated: August 24, 1994.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 94–21857 Filed 9–2–94; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 171
Tuesday, September 6, 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).

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on August 29, 1994, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for October 3, 1994, in Seattle, Washington. The members will consider requests for 1) expense funding for credit/debit cards, and 2) capital funding for Multiline Optical Character Readers (MLOCRs).

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Mackie, Pace, Setrakian and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(4) and (9)(B) of Title 5, United States Code, and section 7.3 (d) and (i) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose under item 1) information that is proprietary or confidential to national credit card vendors; and under item 2) information, the premature disclosure of which would significantly frustrate proposed procurement actions.

The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(4) and (9)(B) of Title 5, United States Code; and section 7.3 (d) and (i) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 94–22040 Filed 9–1–94; 3:45 pm]

BILLING CODE 7710–12–M

federal register

Tuesday
September 6, 1994

Part II

Federal Emergency Management Agency

Federal Radiological Emergency Response Plan; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Proposed Federal Radiological Emergency Response Plan (FRERP)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency gives notice and invites comments on a proposed revision to the Federal Radiological Emergency Response Plan (FRERP) to update and supersede the original FRERP. The FRERP establishes an organized, integrated capability for participating Federal agencies to respond to a wide range of peacetime radiological emergencies. The FRERP provides a concept of operations, outlines Federal policies and planning considerations, and specifies authorities and responsibilities of each Federal agency that has a significant role in such emergencies.

DATES: Comments on the proposed revision should be received by October 15, 1994.

ADDRESSES: FEMA invites your comments on the FRERP. Please send your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (facsimile) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Charles G. McIntosh, Interagency Planning and Liaison Division, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3602.

SUPPLEMENTARY INFORMATION: Section 304 of Public Law 96–295, requires that the President prepare and publish a plan to provide for expeditious, efficient, and coordinated Federal response to accidents at nuclear power facilities. Executive Order (E.O.) 12241 (September 29, 1980) delegated this responsibility to the Director, FEMA. FEMA published the first FRERP on November 8, 1985, 50 FR 46542.

This proposed revision to the FRERP is essential to update the original plan, and to take into account new laws, regulations, and changed operating conditions. Seventeen Federal departments and agencies on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee prepared this proposed revision. Each of the 17 departments and agencies has roles and responsibilities involving response to peacetime radiological emergencies. The concept of operations described in the FRERP is based on specific authorities for responding to radiological emergencies.

Federal agencies respond to radiological emergencies using the FRERP, each agency in accordance with its existing statutory authorities and funding resources. The Lead Federal Agency has responsibility for coordination of the overall Federal response to the emergency. FEMA is responsible for coordinating non-radiological support using the structure of the Federal Response Plan. The relationship between the two plans, which is discussed in the proposed FRERP, will be further described in an Annex to the Federal Response Plan.

Dated: August 26, 1994.

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

The Federal Radiological Emergency Response Plan

Part I

August 1994.

Table of Contents

I. Introduction and Background
A. Introduction
B. Participating Federal Agencies
C. Scope
D. Plan Considerations
1. Public and Private Sector Response
2. Coordination by Federal Agencies
3. Federal Agency Authorities
4. Federal Agency Resource Commitments
5. Requests for Federal Assistance
6. Reimbursement
E. Training and Exercises
F. Relationship to the Federal Response Plan (FRP)
1. Without a Stafford Act Declaration
2. With a Stafford Act Declaration
G. Authorities
II. Concept of Operations
A. Introduction
B. Determination of Lead Federal Agency (LFA)
1. Nuclear Facility
2. Transportation of Radioactive Materials
3. Domestic Satellites Containing Radioactive Materials
4. Impact from Foreign or Unknown Source
5. Other Types of Emergencies
C. Radiological Sabotage and Terrorism
D. Response Functions and Responsibilities
1. Onscene Coordination
2. Onsite Management
3. Radiological Monitoring and Assessment
4. Protective Action Recommendations
5. Other Federal Resource Support
6. Public Information Coordination
7. Congressional and White House Coordination
8. International Coordination
9. Response Function Overview
E. Stages of the Federal Response
1. Notification
2. Activation and Deployment
3. Response Operations
4. Response Deactivation
5. Recovery
Appendix A: Acronyms
Appendix B: Definitions
Appendix C: Federal Agency Response Missions, Capabilities and Resources, References, and Authorities

I. Introduction and Background

A. Introduction

The objective of the Federal Radiological Emergency Response Plan (FRERP) is to establish an organized and integrated capability for timely, coordinated response by Federal agencies to peacetime radiological emergencies.

The FRERP:

(1) Provides the Federal Government's concept of operations based on specific authorities for responding to radiological emergencies;

(2) Outlines Federal policies and planning considerations on which the concept of operations of this Plan and Federal agency specific response plans are based; and

(3) Specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies.

There are two Sections in this Plan. Section I contains background, considerations, and scope. Section II describes the concept of operations for response.

B. Participating Federal Agencies

Each participating agency has responsibilities and/or capabilities that pertain to various types of radiological emergencies. The following Federal agencies participate in the FRERP:

(1) Department of Agriculture (USDA),

(2) Department of Commerce (DOC),

(3) Department of Defense (DOD),

(4) Department of Energy (DOE),

(5) Department of Health and Human Services (HHS),

(6) Department of Housing and Urban Development (HUD),

(7) Department of the Interior (DOI),

(8) Department of Justice (DOJ),

(9) Department of State (DOS),

(10) Department of Transportation (DOT),

(11) Department of Veterans Affairs (VA),

(12) Environmental Protection Agency (EPA),

(13) Federal Emergency Management Agency (FEMA),

(14) General Services Administration (GSA),

(15) National Aeronautics and Space Administration (NASA),

(16) National Communications System (NCS), and

(17) Nuclear Regulatory Commission (NRC).

C. Scope

The FRERP covers any peacetime radiological emergency that has actual, potential, or perceived radiological consequences within the United States, its Territories, possessions, or territorial waters and that could require a response by several Federal agencies. The level of the Federal response to a specific emergency will be based on the type and/or amount of radioactive material involved, the location of the emergency, the impact on or the potential for impact on the public and environment, and the size of the affected area. Emergencies occurring at fixed nuclear facilities or during the transportation of radioactive materials, including nuclear weapons, fall within the scope of the Plan regardless of whether the facility or radioactive materials are publicly or privately owned, Federally regulated, regulated by an Agreement State, or not regulated at all. (Under the Atomic Energy Act of 1954 [Subsection 274.b.], the NRC has relinquished to certain States its regulatory authority for licensing the use of source, byproduct, and small quantities of special nuclear material.)

D. Plan Considerations

1. Public and Private Sector Response

For an emergency at a fixed nuclear facility or a facility not under the control of a Federal agency, State and local governments have primary responsibility for determining and implementing measures to protect life, property, and the environment in areas outside the facility boundaries. The owner or operator of a nuclear facility has primary responsibility for actions within the boundaries of that facility, for providing notification and advice to offsite officials, and for minimizing the radiological hazard to the public.

For emergencies involving an area under Federal control, the responsibility for onsite actions belongs to a Federal agency, while offsite actions are the responsibility of the State or local government.

For all other emergencies, the State or local government has the responsibility for taking emergency actions both onsite and offsite, with support provided, upon request, by Federal agencies as designated in Section II of this plan.

2. Coordination by Federal Agencies

This Plan describes how the Federal response to a radiological emergency will be organized. It includes guidelines for notification of Federal agencies and States, coordination and leadership of Federal response activities onscene, and coordination of Federal public information activities and Congressional relations by Federal agencies. The Plan suggests ways in which the State, local, and Federal agencies can most effectively integrate their actions. The degree to which the Federal response is merged or to which activities are adjusted will be based upon the requirements and priorities set by the State.

Appropriate independent emergency actions may be taken by the participating Federal agencies within the limits of their own statutory authority to protect the public, minimize immediate hazards, and gather information about the emergency that might be lost by delay.

3. Federal Agency Authorities

Some Federal agencies have authority to respond to certain situations affecting public health and safety with or without a State request. Appendix C of this Plan cites relevant legislative and executive authorities. This Plan does not create any new authorities nor change any existing ones.

A response to radiological emergencies on or affecting Federal lands not occupied by a government agency should be coordinated with the agency responsible for managing that land to ensure that response activities are consistent with Federal statutes governing the use and occupancy of these lands. This coordination is necessary in the case of Indian tribal lands because Federally recognized Indian tribes have a special relationship with the U.S. Government, and the State and local governments may have limited or no authority on their reservations.

In the event of an offsite radiological accident involving a nuclear weapon, special nuclear material, and/or classified components, the owner (either DOD, DOE, or NASA) will declare a National Defense Area (NDA) or National Security Area (NSA), respectively, and this area will become "onsite" for the purposes of this plan. NDAs and NSAs are established to safeguard classified information and/or restricted data or equipment and material. Establishment of these areas places non-Federal lands under Federal control and results only from an emergency event. It is possible that radioactive contamination would extend beyond the boundaries of these areas.

In accordance with appropriate national security classification directives, information may be classified concerning nuclear weapons, special nuclear materials at reactors, and certain fuel cycle facilities producing military fuel.

4. Federal Agency Resource Commitments

Agencies committing resources under this Plan do so with the understanding that the duration of the commitment will depend on the nature and extent of the emergency and the State and local resources available. Should another emergency occur that is more serious or of higher priority (such as one that may jeopardize national security), Federal agencies will reassess resources committed under this Plan.

5. Requests for Federal Assistance

State and local government requests for assistance, as well as those from owners and operators of radiological facilities or activities, may be made directly to the Federal agencies listed in Table II–1, FEMA, or to other Federal agencies with whom they have preexisting arrangements or relationships.

6. Reimbursement

The cost of each Federal agency's participation in support of the FRERP is the responsibility of that agency, unless other agreements or reimbursement mechanisms exist. GSA will be reimbursed for supplies and services provided under this Plan in accordance with prior interagency agreements.

E. Training and Exercises

Federal agencies, in conjunction with State and local governments, will periodically exercise the FRERP. Each agency will coordinate its exercises with the Federal Radiological Preparedness Coordinating Committee's (FRPCC's) Subcommittee on Federal Response to avoid duplication and to invite participation by other Federal agencies.

Federal agencies will assist other Federal agencies and State and local governments with planning and training activities designed to improve response capabilities. Each agency should coordinate its training programs with the FRPCC's Subcommittee on Training to avoid duplication and to make its training available to other agencies.

F. Relationship to the Federal Response Plan (FRP)

1. Without a Stafford Act Declaration

Federal agencies will respond to radiological emergencies using the FRERP, each agency in accordance with existing statutory and funding resources. The LFA has responsibility for coordination of the overall Federal

response to the emergency. FEMA is responsible for coordinating non-radiological support using the structure of the Federal Response Plan (FRP).

2. With a Stafford Act Declaration

When a Stafford Act Declaration has activated the FRP and an associated radiological emergency exists, the functions and responsibilities of the FRERP remain the same. The LFA coordinates the management of the radiological response with the Federal Coordinating Officer (FCO). Although the direction of the radiological response remains with the LFA, the FCO has the overall responsibility for coordination of Federal response in support of State and local governments under the FRP.

G. Authorities

The following authorities are the basis for the development of this Plan:

(1) Nuclear Regulatory Commission Appropriation Authorization, Public Law 96–295, June 30, 1980, sec. 304. This authorization requires the President to prepare and publish a "National Contingency Plan" (subsequently renamed the FRERP) to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in case of accidents at commercial nuclear power plants.

(2) Executive Order (E.O.) 12241, National Contingency Plan, September 29, 1980. This E.O. delegates to the Director of FEMA the responsibility for publishing the National Contingency Plan (i.e., the FRERP) for accidents at nuclear power facilities and requires that it be published from time to time in the **Federal Register.**

Authorities for the activities of individual Federal agencies appear in Appendix C.

II. Concept of Operations

A. Introduction

The concept of operations for a response provides for the designation of one agency as the Lead Federal Agency (LFA) and for the establishment of onscene, interagency response centers. The FRERP describes both the responsibilities of the LFA and other Federal agencies that may be involved and the functions of each of the onscene centers.

The concept of operations recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the control of a Federal agency.

B. Determination of Lead Federal Agency (LFA)

The agency which is responsible for leading and coordinating all aspects of the Federal response is referred to as the LFA and is determined by the type of emergency. In situations where a Federal agency owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency and has authority to conduct and manage Federal actions onsite, that agency normally will be the LFA.

The following identifies the LFA for each specified type of radiological emergency.

1. Nuclear Facility

a. Licensed by Nuclear Regulatory Commission (NRC) or an Agreement State. The NRC is the LFA for an emergency that occurs at a fixed facility or regarding an activity licensed by the NRC or an Agreement State. These include, but are not limited to, commercial nuclear power reactors, fuel cycle facilities, gaseous diffusion facilities, and radiopharmaceutical manufacturers.

b. Owned or Operated by DOD or DOE. The LFA is either DOD or DOE, depending on which agency owns or authorizes operation of the facility. These emergencies may involve reactor operations, nuclear material and weapons production, radioactive material from nuclear weapons, or other radiological activities.

c. Not Licensed, Owned, or Operated by a Federal Agency or an Agreement State. The EPA is the LFA for an emergency that occurs at a facility not licensed, owned, or operated by a Federal agency or an Agreement State. These include facilities that possess, handle, store, or process radium or accelerator-produced radioactive materials.

2. Transportation of Radioactive Materials

a. Shipment of Materials Licensed by NRC or an Agreement State. The NRC is the LFA for an emergency that involves radiological material licensed by the NRC or an Agreement State.

b. Materials Shipped by or for DOD or DOE. The LFA is either DOD or DOE depending on which of these agencies has custody of the material at the time of the accident.

c. Shipment of Materials Not Licensed or Owned by a Federal Agency or an Agreement State. The EPA is the LFA for an emergency that involves radiological material not licensed or owned by a Federal agency or an Agreement State.

3. Domestic Satellites Containing Radioactive Materials

NASA is the LFA for NASA spacecraft missions. DOD is the LFA for DOD spacecraft missions. DOE and EPA provide technical assistance to DOD and NASA.

4. Impact From Foreign or Unknown Source

The EPA is the LFA for an emergency that involves radioactive material from a foreign or unknown source that has actual, potential, or perceived radiological consequences in the United States, its Territories, possessions, or territorial waters. The foreign or unknown source may be a reactor (e.g., Chernobyl), a spacecraft containing radioactive material, radioactive fallout from atmospheric testing of nuclear devices, imported radioactively contaminated material, or a shipment of foreign-owned radioactive material. Unknown sources of radioactive material refers to that material whose origin and/or radiological nature is not yet established. These types of sources include contaminated scrap metal or abandoned radioactive material. DOD, DOE, NASA, and NRC provide technical assistance to EPA.

In the event of an emergency involving a joint U.S. Government and foreign government spacecraft venture containing radioactive sources and/or classified components, the LFA will be DOD or NASA, as appropriate. A joint U.S./foreign venture is defined as an activity in which the U.S. Government has an ongoing interest in the successful completion of the mission and is intimately involved in mission operations. A joint venture is not created by simply selling or supplying material to a foreign country for use in their spacecraft. DOE and EPA will provide technical support and assistance to the LFA.

5. Other Types of Emergencies

In the event of an unforeseen type of emergency not specifically described in this Plan or a situation where conditions exist involving overlapping responsibility that could cause confusion regarding LFA role and responsibilities, DOD, DOE, EPA, NASA, and NRC will confer upon receipt of notification of the emergency to determine which agency is the LFA.

TABLE II–1.—IDENTIFICATION OF LEAD FEDERAL AGENCY FOR RADIOLOGICAL EMERGENCIES

Type of emergency	Lead federal agency
1. Nuclear Facility:	
a. Licensed by NRC or an Agreement State	NRC.
b. Owned or Operated by DOD or DOE	DOD or DOE.
c. Not Licensed, Owned, or Operated by a Federal Agency or an Agreement State	EPA.
2. Transportation of Radioactive Materials:	
a. Shipment of Materials Licensed by NRC or an Agreement State	NRC.
b. Materials Shipped by or for DOD or DOE	DOD or DOE.
c. Shipment of Materials Not Licensed or Owned by a Federal Agency or an Agreement State	EPA.
3. Domestic Satellites Containing Radioactive Materials	NASA or DOD.
4. Impact from Foreign or Unknown Source	EPA, DOD, or NASA.
5. Other Types of Emergencies	LFAs confer.

C. Radiological Sabotage and Terrorism

Sabotage and terrorism are not treated as separate types of emergencies; rather, they are considered a complicating dimension of the types listed in Table II–1. For fixed facilities and materials in transit, responses to radiological emergencies generally do not depend on the initiating event. The coordinated response to contain or mitigate a threatened or actual release of radioactive material would be essentially the same whether it resulted from an accidental or deliberate act. For malevolent acts involving improvised nuclear or radiation dispersal devices, the response is further complicated by the magnitude of the threat and the need for specialized technical expertise/actions.

The Atomic Energy Act directs the Federal Bureau of Investigation (FBI) to investigate all alleged or suspected criminal violations of the Act. Additionally, the FBI is legally responsible for locating any nuclear weapon, device, or material and for restoring nuclear facilities to their rightful custodians. In view of its unique responsibilities under the Atomic Energy Act (amended by the Energy Reorganization Act), the FBI has concluded formal agreements with the LFAs that provide for interface, coordination, and technical assistance in support of the FBI's mission.

It would be difficult to outline all the possible scenarios arising from criminal or terrorist activity. As a result, the Federal response will be tailored to the specific circumstances of the event at hand. Generally, for fixed facilities and materials in transit, the designated LFA and supporting agencies will perform the functions delineated in this plan and provide technical support and assistance to the FBI in the performance of its mission. For those emergencies where an LFA is not specifically designated (e.g., improvised nuclear device), the Federal response will be guided by the established interagency agreements and contingency plans. In accordance with these agreements and plans, the signatory agency(ies) supporting the FBI will coordinate and manage the technical portion of the response and activate/request assistance under the FRERP for measures to protect the public health and safety. In all cases, the FBI will manage and direct the law enforcement and intelligence aspects of the response; coordinating activities with appropriate Federal, State, and local agencies within the framework of the FRERP and/or as provided for in established interagency agreements or plans.

D. Response Functions and Responsibilities

1. Onscene Coordination

The LFA will coordinate all Federal onscene actions and assist State and local governments in determining measures to protect life, property, and the environment. The LFA will ensure that FEMA and other Federal agencies assist the State and local government agencies in implementing protective actions, if requested by the State and local government agencies.

The LFA will coordinate Federal response activities from an onscene location, referred to as the Joint Operations Center (JOC). Until the LFA has established its base of operations in a JOC, the LFA will accomplish that coordination from another LFA facility, usually a Headquarters operations center.

For radiological emergencies occurring on or with possible consequences to Indian tribal lands, DOI will provide liaison between Federally recognized Indian tribal governments and LFA, State, and local agencies for coordination of response and protective action efforts. Additionally, DOI will advise and assist the LFA on economic, social, and political matters in the Virgin Islands and the Territories of Guam, American Samoa, and the Trust Territories of the Pacific Islands should a radiological emergency occur in these areas.

2. Onsite Management

The LFA will oversee the onsite response; monitor and support owner or operator activities (when there is an owner or operator); provide technical support to the owner or operator, if requested; and serve as the principal Federal source of information about onsite conditions. The LFA will provide a hazard assessment of onsite conditions that might have significant offsite impact and ensure onsite measures are taken to mitigate offsite consequences.

3. Radiological Monitoring and Assessment

DOE has the initial responsibility for coordinating the offsite Federal radiological monitoring and assessment assistance during the response to a radiological emergency. In a prolonged response, EPA will assume the responsibility for coordinating the assistance at some mutually agreeable time, usually after the emergency phase.

Some of the participating Federal agencies may have radiological planning and emergency responsibilities as part of their statutory authority, as well as established working relationships with State counterpart agencies. The monitoring and assessment activity, coordinated by DOE, does not alter those responsibilities but complements them by providing for coordination of the initial Federal radiological monitoring and assessment response activity.

Activities will:

(1) Support the monitoring and assessment programs of the States,

(2) Respond to the assessment needs of the LFA, and

(3) Meet statutory responsibilities of participating Federal agencies.

Federal offsite monitoring and assessment activities will be coordinated with those of the State. Federal agency plans and procedures for implementing this monitoring and

assessment activity are designed to be compatible with the radiological emergency planning requirements for State, local governments, specific facilities, and existing memoranda of understanding and interagency agreements.

DOE may respond to a State or LFA request for assistance by dispatching a Radiological Assistance Program (RAP) team. If the situation requires more assistance than a RAP team can provide, DOE will alert or activate additional resources. These resources may include the establishment of a Federal Radiological Monitoring and Assessment Center (FRMAC) to be used as an onscene coordination center for Federal radiological assessment activities. States are encouraged to collocate their radiological assessment activities at this center.

Federal radiological monitoring and assessment activities will be activated as a component of an FRERP response or pursuant to a direct request from State or local governments, other Federal agencies, licensees for radiological materials, industries, or the general public after evaluating the magnitude of the problem and coordinating with the State(s) involved.

DOE and other participating Federal agencies may learn of an emergency when they are alerted to a possible problem or receive a request for radiological assistance. DOE will maintain national and regional coordination offices as points of access to Federal radiological emergency assistance. Requests for Federal radiological monitoring and assessment assistance will generally be directed to the appropriate DOE radiological assistance Regional Coordinating Office. Requests also can go directly to DOE's Emergency Operations Center (EOC) in Washington, DC. When other agencies receive requests for Federal radiological monitoring and assessment assistance, they will promptly notify the DOE EOC.

a. Role of Department of Energy (DOE). (1) Initial Response Coordination Responsibility. DOE, as coordinator, has the following responsibilities:

(a) Coordinate Federal offsite radiological monitoring and assessment activities;

(b) Maintain technical liaison with State and local agencies with monitoring and assessment responsibilities;

(c) Maintain a common set of all offsite radiological monitoring data, in an accountable, secure, and retrievable form, and ensure the technical integrity of the data;

(d) Provide monitoring data and interpretations, including exposure rate contours, dose projections, and any other requested radiological assessments, to the LFA, and to the States;

(e) Provide, in cooperation with other Federal agencies, the personnel and equipment needed to perform radiological monitoring and assessment activities;

(f) Request supplemental assistance and technical support from other Federal agencies as needed; and

(g) Arrange consultation and support services through appropriate Federal agencies to all other entities (e.g., private contractors) with radiological monitoring functions and capabilities, and technical and medical advice on handling radiological contamination.

(2) Transition of Response Coordination Responsibility. The DOE FRMAC Director will work closely with the Senior EPA representative to facilitate a smooth transition of the Federal radiological monitoring and assessment coordination responsibility to EPA at a mutually agreeable time and after consultation with the States and LFA. The following conditions are intended to be met prior to this transfer:

(a) The immediate emergency condition has been stabilized;

(b) Offsite releases of radioactive material have ceased, and there is little or no potential for further unintentional offsite releases;

(c) The offsite radiological conditions have been characterized and the immediate consequences have been assessed;

(d) An initial long-range monitoring plan has been developed in conjunction with the affected States and appropriate Federal agencies; and

(e) EPA has received adequate assurances from the other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response.

b. Role of the Environmental Protection Agency (EPA). (1) Prior to assuming responsibility for the FRMAC, EPA will provide resources, including personnel, equipment, and laboratory support (including mobile laboratories), to assist DOE in monitoring radioactivity levels in the environment.

(2) Assume coordination of Federal radiological monitoring and assessment responsibilities from DOE after the transition.

(3) Assist in the development and implementation of a long-term monitoring plan.

(4) Provide nationwide environmental monitoring data from the Environmental Radiation Ambient Monitoring Systems for assessing the national impact of the accident.

c. Role of the Lead Federal Agency (LFA). (1) Approve the release of official Federal offsite monitoring data and assessments to the State.

(2) Provide other available radiological monitoring data to the State and to the FRMAC.

d. Role of Other Federal Agencies. Agencies carrying out responsibilities related to radiological monitoring and assessment during a Federal response also will coordinate their activities with FRMAC. This coordination will not limit the normal working relationship between a Federal agency and its State counterparts nor restrict the flow of information from that agency to the States. The radiological monitoring and assessment responsibilities of the other Federal agencies include:

(1) Department of Agriculture (USDA).

(a) Inspect meat and meat products, poultry and poultry products, and egg products identified for interstate and foreign commerce to assure that they are safe for human consumption.

(b) Assist, in conjunction with HHS, in monitoring the production, processing, storage, and distribution of food through the wholesale level to eliminate contaminated product or to reduce the contamination in the product to a safe level.

(c) Collect agricultural samples within the Ingestion Exposure Pathway Emergency Planning Zone. Assist in the evaluation and assessment of data to determine the impact of the emergency on agriculture.

(2) Department of Commerce (DOC).

(a) Prepare operational weather forecasts tailored to support emergency response activities.

(b) Prepare and disseminate predictions of plume trajectories, dispersion, and deposition.

(c) Archive, as a special collection, the meteorological data from national observing systems applicable to the monitoring and assessment of the response.

(d) Ensure that marine fishery products available to the public are not contaminated.

(e) Provide assistance and reference material for calibrating radiological instruments.

(3) Department of Defense (DOD).

(a) Provide radiological resources to include trained response personnel, specialized radiation instruments, mobile instrument calibration, repair capabilities, and expertise in site restoration.

(b) Perform special sampling of airborne contamination on request.

(4) Department of Health and Human Services (HHS).

(a) In conjunction with USDA, inspect production, processing, storage, and distribution facilities for human food and animal feeds, which may be used in interstate commerce, to assure protection of the public health.

(b) Collect samples of agricultural products to monitor and assess the extent of contamination as a basis for recommending or implementing protective actions.

(5) Department of the Interior (DOI).

(a) Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.

(b) Advise and assist in evaluating processes affecting radioisotopes in soils, including personnel, equipment, and laboratory support.

(c) Advise and assist in the development of geographical information systems (GIS) databases to be used in the analysis and assessment of contaminated areas including personnel, equipment, and databases.

(6) Nuclear Regulatory Commission (NRC).

(a) Provide assistance in Federal radiological monitoring and assessment activities during incidents.

(b) Provide continuous measurement of ambient radiation levels around NRC licensed facilities, primarily power reactors using thermoluminescent dosimeters (TLD).

4. Protective Action Recommendations

Federal protective action recommendations provide advice to State and local governments on measures that they should take to avoid or reduce exposure of the public to radiation from a release of radioactive material. This includes emergency actions such as sheltering, evacuation, and prophylactic use of iodine. It also includes longer term measures to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway such as restriction of food, temporary relocation, and permanent resettlement.

a. Role of the Lead Federal Agency (LFA). The LFA will assist State and local authorities, if requested, by advising them on protective actions for the public. The development or evaluation of protective action recommendations will be based upon the Protective Action Guides (PAGs) issued by EPA and HHS. In providing such advice, the LFA will use advice from other Federal agencies with technical expertise on those matters whenever possible. The LFA's responsibilities for the development, evaluation, and presentation of protective action recommendations are to:

(1) Respond to requests from State and local governments for technical information and assistance.

(2) Consult with representatives from EPA, HHS, USDA, and other Federal agencies as needed to provide advice to the LFA on protective actions.

(3) Review all recommendations made by other Federal agencies exercising statutory authorities related to protective actions to ensure consistency.

(4) Prepare a coordinated Federal position on protective action recommendations whenever time permits.

(5) Present the Federal assessment of protective action recommendations, in conjunction with FEMA and other Federal agencies when practical, to State or other offsite authorities.

b. Role of the Advisory Team for Environment, Food, and Health. Advice on environment, food, and health matters will be provided to the LFA through the Advisory Team for Environment, Food, and Health (Advisory Team) consisting of representatives of EPA, HHS, and USDA supported by other Federal agencies, as warranted by the circumstances of the emergency. The Advisory Team provides direct support to the LFA and has no independent authority. The Advisory Team will not release information to the public or make recommendations on matters under the jurisdiction of a Federal agency unless authorized to do so by that agency. The Advisory Team will select a chairman for the Team. The Advisory Team will normally collocate with the FRMAC.

For emergencies with potential for causing widespread radiological contamination where no onscene FRMAC is established, the functions of the Advisory Team may be accomplished in the LFA response facility in Washington, DC.

The primary role of the Advisory Team is to provide a mechanism for timely, interagency coordination of advice to the LFA and other Federal agencies concerning matters related to the following areas:

(1) Environmental assessments (field monitoring) required for developing recommendations.

(2) PAGs and their application to the emergency.

(3) Protective action recommendations using data and assessment from the FRMAC.

(4) Protective actions to prevent or minimize contamination of milk, food, and water and to prevent or minimize exposure through ingestion.

(5) Recommendations regarding the disposition of contaminated livestock and poultry.

(6) Recommendations for minimizing losses of agricultural resources from radiation effects.

(7) Availability of food, animal feed, and water supply inspection programs to assure wholesomeness.

(8) Relocation, reentry, and other radiation protection measures prior to recovery.

(9) Recommendations for recovery, return, and cleanup issues.

(10) Health and safety advice or information for the public and for workers.

(11) Estimate effects of radioactive releases on human health and environment.

(12) Guidance on the use of radioprotective substances (e.g., thyroid blocking agents), including dosage and projected radiation doses that warrant the use of such drugs.

(13) Other matters, as requested by the LFA.

5. Other Federal Resource Support

FEMA will coordinate the provision of non-technical (i.e., not related to radiological monitoring and assessment) Federal resources and assistance to affected State and local governments. The Federal non-technical resource and assistance coordination function will be performed at the Disaster Field Office (DFO) established by FEMA.

a. Role of the Federal Emergency Management Agency (FEMA). FEMA will, as requested:

(1) Monitor the status of the Federal response to requests for non-technical assistance from the affected States and provide this information to the States.

(2) Keep the LFA informed of requests for assistance from the State and the status of the Federal response.

(3) Identify and inform Federal agencies of actual or apparent omissions, redundancies, or conflicts in response activity.

(4) Establish and maintain a source of integrated, coordinated information about the status of all non-technical resource support activities.

(5) Provide information systems capabilities to meet the needs of agencies and organizations represented at the DFO.

(6) Provide other non-technical support to Federal agencies responding to the emergency.

b. Role of Other Federal Agencies. In order to properly coordinate activities, Federal agencies responding to requests for non-technical support or directly providing such support under statutory authorities will provide liaison

personnel to the DFO. The following indicates types of assistance not related to radiological monitoring and assessment that may be provided by Federal agencies as needed or requested:

(1) Department of Agriculture (USDA).

(a) Provide emergency food coupon assistance in officially designated disaster areas, if a need is determined by officials and if the commercial food system is sufficient to accommodate the use of food coupons.

(b) Assist in reallocation of USDA donated food supplies from warehouses, local schools, and other outlets to emergency care centers. These are foods donated to various outlets through USDA food programs.

(c) Provide lists that identify locations of alternate sources of food and livestock feed.

(d) Assist in providing temporary housing for evacuees.

(e) Assess damage to crops, soil, livestock, poultry, and processing facilities; and incorporate findings in a damage assessment report.

(f) Provide emergency communications assistance to the agricultural community through the Cooperative Extension System, an electronic mail system.

(2) Department of Commerce (DOC).

Loaning radiation shielding materials.

(3) Department of Defense (DOD).

DOD may provide assistance in the form of personnel, logistics and telecommunications, advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials, and assistance, including airlift services, when available, upon the request of the LFA or FEMA. Requests for assistance must be directed to the National Military Command Center or through channels established by prior agreements.

(4) Department of Energy (DOE).

Provide advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials.

(5) Department of Health and Human Services (HHS).

(a) Ensure the availability of health and medical care and other human services (especially for the aged, poor, infirm, blind, and others most in need).

(b) Assist in providing crisis counseling to victims in affected geographic areas.

(c) Provide guidance to State and local health officials on disease control measures and epidemiological surveillance and study of exposed populations.

(d) Provide advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials.

(e) Provide advice and guidance in assessing the impact of the effects of radiological incidents on the health of persons in the affected area.

(6) Department of Housing and Urban Development (HUD).

(a) Review and report on available housing for disaster victims and displaced persons.

(b) Assist in planning for and placing homeless victims in available housing.

(c) Provide staff to support emergency housing within available resources.

(d) Provide housing assistance and advisory personnel.

(7) Department of the Interior (DOI).

Advise and assist in assessing impacts to economic, social, and political issues relating to natural resources, including fish and wildlife, public lands, land reclamation, mining, minerals, and water resources.

(8) Department of Transportation (DOT).

(a) Support State and local governments by identifying sources of civil transportation on request and when consistent with statutory responsibilities.

(b) Coordinate the Federal civil transportation response in support of emergency transportation plans and actions with State and local governments. (This may include provision of Federally controlled transportation assets and the controlling of airspace or transportation routes to protect commercial transportation and to facilitate the movement of response resources to the scene.)

(c) Provide Regional Emergency Transportation Coordinators and staff to assist State and local authorities in planning and response.

(d) Provide technical advice and assistance on the transportation of radiological materials and the impact of the incident on the transportation system.

(9) Department of Veterans Affairs (VA).

(a) Provide medical assistance using Medical Emergency Radiological Response Teams (MERRTs).

(b) Provide temporary housing.

(10) General Services Administration (GSA).

(a) Provide acquisition and procurement of floor space, telecommunications and automated data processing services, supplies, services, transportation, computers, contracting, equipment, and material; as well as specified logistical services which exceed the capabilities of other Federal agencies.

(b) Activate the Regional Emergency Communications Planner (RECP) and a Federal Emergency Communications Coordinator (FECC). RECP will provide technical support and accept guidance from the FEMA Regional Director during the pre-deployment phase of a telecommunications emergency.

(c) Upon request, will dispatch the FECC to the scene to expedite the provision of the telecommunications services.

(11) National Communications System (NCS).

Coordinate the communications for the Federal response and assist appropriate State agencies in meeting their communications requirements.

6. Public Information Coordination

Public information coordination is most effective when the owner/operator, Federal, State, local, and other relevant information sources participate jointly. The primary location for linking these sources is the Joint Information Center (JIC).

Prior to the establishment of Federal operations at the JIC, it may be necessary to release Federal information regarding public health and safety. In these instances, Federal agencies will coordinate with the LFA in advance or as soon as possible after the information has been released.

This coordination will accomplish the following:

(1) Compile information about the status of the emergency, response actions, and instructions for the affected population;

(2) Coordinate all information from various sources with the other Federal, State, local, and non-governmental response organizations;

(3) Allow various sources to work cooperatively, yet maintain their independence in disseminating information;

(4) Disseminate timely, consistent, and accurate information to the public and the news media; and

(5) Establish coordinated arrangements for dealing with citizen inquiries.

a. Role of the Lead Federal Agency (LFA). The LFA is responsible for information on the status of the overall Federal response, specific LFA response activities, and the status of onsite conditions.

The LFA will:

(1) Develop joint information procedures for providing Federal information to and for obtaining information from all Federal agencies participating in the response;

(2) Work with the owner/operator and State and local government information officers to develop timely coordinated public information releases;

(3) Inform the media that the JIC is the primary source of onscene public

information and news from facility, local, State, and Federal spokespersons;

(4) Establish and manage Federal public information operations at the JIC; and

(5) Coordinate Federal public information among the various media centers.

b. Role of the Federal Emergency Management Agency (FEMA). FEMA will assist the LFA in coordinating non-technical information among Federal agencies and with the State. When mutually agreeable, FEMA may assume responsibility from the LFA for coordinating Federal public information. Should this occur, it will usually be after the onsite situation has been stabilized and recovery efforts have begun.

c. Role of Other Participating Agencies.

All Federal agencies with an operational response role under the FRERP will coordinate public information activities at the JIC. Each Federal agency will provide information on the status of its response and on technical information.

7. Congressional and White House Coordination

a. Congressional Coordination. Federal agencies will coordinate their responses to Congressional requests for information with the LFA. Points of contact for this function are the Congressional Liaison Officers. All Federal agency Congressional Liaison Officers and Congressional staffs seeking site-specific information about the emergency should contact the LFA headquarters Congressional Affairs Office. Congress may request information directly from any Federal agency. Any agency responding to such requests should inform the LFA as soon as feasible.

b. White House Coordination. The LFA will report to the President and keep the White House informed on all aspects of the emergency. The White House may request information directly from any Federal agency. Any agency responding to such requests should inform the LFA as soon as feasible. The LFA will submit reports to the White House. The initial report should cover, if possible, the nature of and prognosis for the radiological situation causing the emergency and the actual or potential offsite radiological impact. Subsequent reports by the LFA should cover the status of mitigation, corrective actions, protective measures, and overall Federal response to the emergency. Federal agencies should provide information related to the technical and radiological aspects of the response directly to the LFA. FEMA will compile information related to the non-technical resource support aspects of the response and submit to the LFA for inclusion in the report(s).

8. International Coordination

In the event of an environmental impact or potential impact upon the United States, its possessions, Territories, or territorial waters from a radiological emergency originating on foreign soil or, conversely, a domestic incident with an actual or potential foreign impact, the LFA will immediately inform DOS (which has responsibility for official interactions with foreign governments). The LFA will keep DOS informed of all Federal response activities. The DOS will coordinate notification and information gathering activities with foreign governments, except in cases where existing bilateral agreements permit direct communication. Where the LFA has existing bilateral agreements that permit direct exchange of information, those agencies should keep DOS informed of consultations with their foreign counterparts. Agency officials should take care that consultations do not exceed the scope of the relevant agreement(s). The LFA will ensure that any offers of assistance to or requests from foreign governments are coordinated with DOS.

9. Response Function Overview

Table II–2 provides an overview of the responsible Federal agencies for major response functions.

TABLE II–2.—RESPONSE FUNCTION OVERVIEW

Response action	Responsible agency
(1) Maintain cognizance of the Federal response; conduct and manage Federal onsite actions	LFA.
(2) Coordinate Federal offsite radiological monitoring and assessment:	
—Initial Response	DOE.
—Intermediate and Long-Term Response	EPA.
(3) Develop and evaluate recommendations for offsite protective actions for the public	LFA, in coordination with other agencies.
(4) Present recommendations for offsite protective actions to the appropriate State and/or local officials	LFA, in conjunction with FEMA and other Federal agencies when practical.
(5) Coordinate Federal offsite non-technical resource support	FEMA.
(6) Coordinate release of Federal information to the public	LFA; FEMA after mutual agreement.
(7) Coordinate release of Federal information to Congress	LFA.
(8) Provide reports to the President and keep the White House informed on all aspects of the emergency	LFA.
(9) Coordinate international aspects and make required international notifications	DOS; LFA as appropriate.
(10) Coordinate the law-enforcement aspects of a criminal act involving radioactive material	DOJ.

E. Stages of the Federal Response

The Federal response is divided into five stages: Notification, Activation and Deployment, Response Operations, Response Deactivation, and Recovery.

1. Notification

The owner or operator of the facility or radiological activity is generally the first to become aware of a radiological emergency and is responsible for notifying the State and local authorities and the LFA. The notification should include:

(1) Location and nature of the accident,

(2) An assessment of the severity of the problem,

(3) Potential and actual offsite consequences, and

(4) Initial response actions.

If any Federal agency receives notification from any source other than FEMA or the LFA, the agency will notify the LFA. See Figure II–1 for the notification process.

a. Role of the Lead Federal Agency (LFA). (1) Verify accuracy of notification,

(2) Notify FEMA and advisory team agencies and provide information,

(3) Verify that other Federal agencies have been notified, and

(4) Verify that the State has been notified.

b. Role of Federal Emergency Management Agency (FEMA). (1) Verify that the State has been notified of the emergency, and

(2) Notify other Federal agencies as appropriate.

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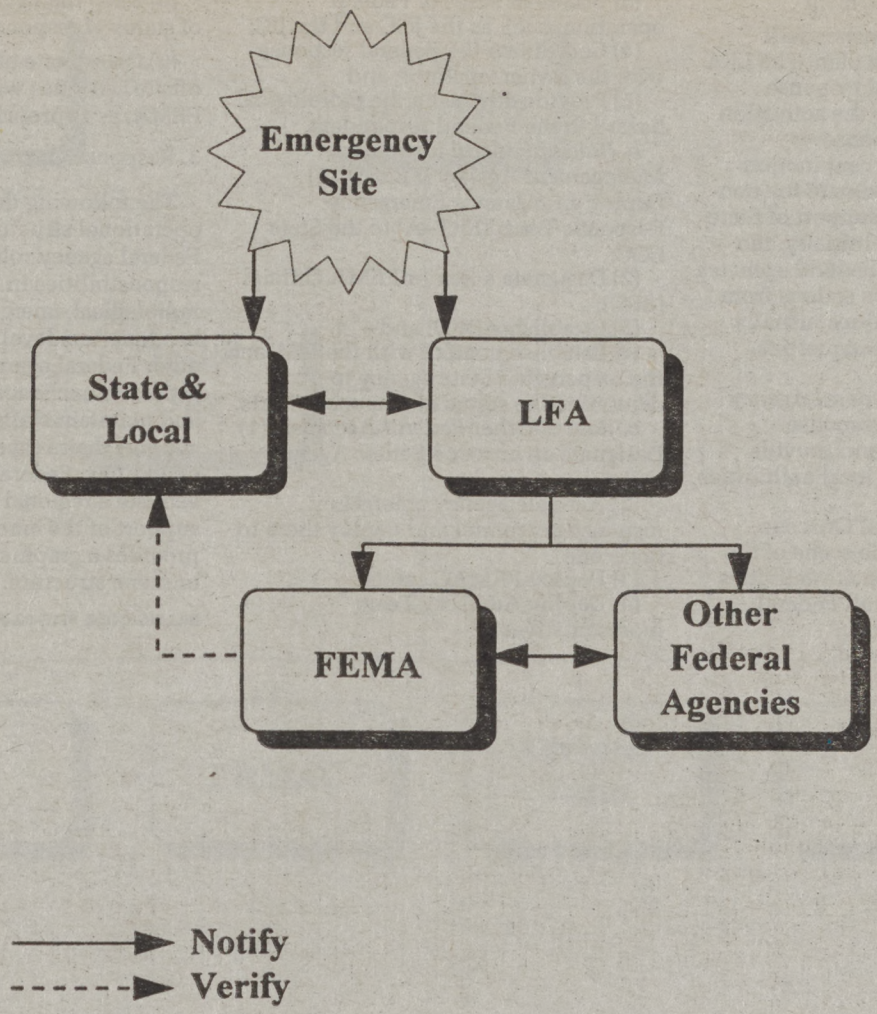

Figure II-1. Notification Process

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2. Activation and Deployment

Once notified, each agency will respond according to its plan. The LFA will assess the technical response requirements and cause the activation and deployment of response components. FEMA, in conjunction with the LFA, will coordinate the non-technical assistance in support of State and local governments. Initially, the LFA, FEMA, and other Federal agencies will coordinate response actions from their headquarters locations, usually from their respective headquarters EOCs.

a. Role of the Lead Federal Agency (LFA). (1) Deploy LFA response personnel to the scene and provide liaison to the State and local authorities as appropriate;

(2) Designate a Federal Onscene Commander (OSC) at the scene of the emergency to manage onsite activities and coordinate the overall Federal response to the emergency;

(3) Establish bases of Federal operation, such as the JOC and the JIC;

(4) Coordinate the Federal response with the owner/operator; and

(5) Provide advice on the radiological hazard to the Federal responders.

b. Role of Federal Emergency Management Agency (FEMA). (1) Deploy an Advance Emergency Response Team (ERT–A) to the State EOC;

(2) Designate a Senior FEMA Official (SFO);

(3) Establish a DFO; and

(4) Establish contact with the LFA and the responsible State agency to determine the status of response efforts.

c. Role of Other Federal Agencies. (1) Designate an onscene Senior Agency Official;

(2) Activate agency emergency response personnel and deploy them to the scene;

(3) Deploy FRMAC assets;

(4) Deploy Advisory Team representatives;

(5) Keep the LFA and FEMA informed of status of response activities; and

(6) Coordinate all State requests and offsite activities with the LFA and FEMA, as appropriate.

3. Response Operations

The following describes the general operational structure for meeting Federal agency roles and responsibilities in response to a radiological emergency. At the headquarters level, the LFA, FEMA, and other Federal agencies (OFAs) will generally exchange liaison personnel and maintain staffs at their EOCs to support their respective onscene operations. Federal agencies may also activate a regional or field office EOC in support of the emergency. Figure II–2 provides a graphic depiction of the onscene structure.

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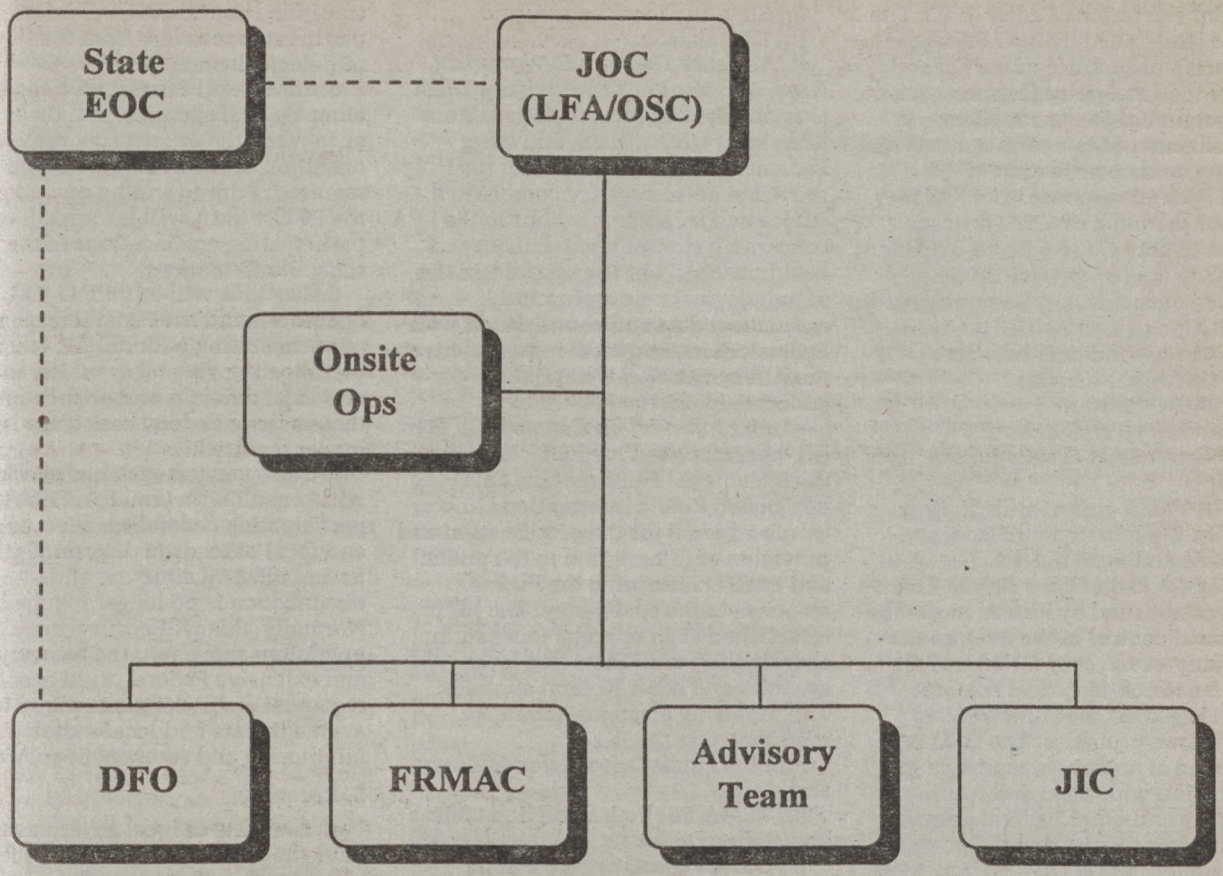

Figure II-2. Onscene Response Operations Structure

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a. Joint Operations Center (JOC). The JOC[1] is established by the LFA under the operational control of the Federal OSC, as the focal point for management and direction of onsite activities, establishment of State requirements and priorities, and coordination of the overall Federal response. The JOC may be established in a separate onscene location or collocated with an existing emergency operations facility. The following elements may be represented in the JOC:

(a) LFA staff and onsite liaison;
(b) FEMA/DFO liaison;
(c) FRMAC liaison;
(d) Advisory Team liaison;
(e) Other Federal agency liaison, as needed;
(f) LFA Public information liaison;
(g) LFA Congressional liaison; and
(h) State and local liaison.

b. Disaster Field Office (DFO). The DFO is established by FEMA, under the operational control of the SFO, as the focal point for the coordination and provision of non-technical resource support based on coordinated State requirements/priorities. The DFO is established at an onscene location in coordination with State and local authorities and other Federal agencies. The following elements may be represented in the DFO:

(a) LFA liaison,
(b) Other appropriate Federal agency personnel,
(c) State and local liaison,
(d) Public information liaison, and
(e) Congressional liaison.

c. Federal Radiological Monitoring and Assessment Center (FRMAC). The FRMAC is established by DOE (with subsequent transfer to EPA for intermediate and long-term actions) for the coordination of Federal radiological monitoring and assessment activities with that of State and local agencies. The FRMAC is established at an onscene location in coordination with State and local authorities and other Federal agencies. The following elements may be represented in the FRMAC:

(a) DOE/DOE contractor technical staff and capabilities;
(b) EPA/EPA contractor technical staff and capabilities;
(c) DOC technical staff and capabilities;
(d) LFA technical liaison;
(e) DOE public information liaison;
(f) Other Federal agency liaisons, as needed;
(g) State and local liaison; and
(h) DFO liaison.

d. Advisory Team on Environment, Food, and Health. The Advisory Team is established by representatives from EPA, LFA, USDA, HHS, and other Federal agencies as needed for the provision of interagency coordinated advice and recommendations to the LFA concerning environmental, food, and health matters. For the ease of transfer of radiological monitoring and assessment data and coordination with Federal, State, and local representatives, the Advisory Team is normally collocated with the FRMAC.

e. Joint Information Center (JIC). The JIC[2] is established by the LFA, under the operational control of the LFA-designated Public Information Officer, as a focal point for the coordination and provision of information to the public and media concerning the Federal response to the emergency. The JIC is established at an onscene location in coordination with State and local agencies and other Federal agencies. The following elements should be represented at the JIC:

(a) LFA Public Information Officer and staff;
(b) FEMA Public Information Officer and staff;
(c) Other Federal agency Public Information, as needed;
(d) State and local Public Information Officers; and
(e) Owner/Operator Public Information Officers and staff.

4. Response Deactivation

a. Each agency will discontinue emergency response operations when advised that Federal assistance is no longer required from their agency or when its statutory responsibilities have been fulfilled. Prior to discontinuing its response operation, each agency should discuss its intent to do so with the LFA, FEMA, and the State.

b. The LFA will consult with participating Federal agencies and the State and local government to determine when the Federal information coordination operations at the JIC should be terminated. This will occur normally at a time when the rate of information generated and coordinated by the LFA has decreased to the point where it can be handled through the normal day-to-day coordination process. The LFA will inform the other participants of their intention to deactivate Federal information coordination operations at the JIC and advise them of the procedures for continued coordination of information pertinent to recovery from the radiological emergency.

c. FEMA will consult with the LFA, other Federal agencies, and the State(s) as to when the onscene coordination operation of the DFO is no longer required. Prior to ending operations at the DFO, FEMA will inform all participating organizations of the schedule for doing so.

d. The LFA will terminate JOC operations and the Federal response after consulting with FEMA, other participating Federal agencies, and State and local officials, and after determining that onscene Federal assistance is no longer required.

e. The agency managing the FRMAC will consult with the LFA, FEMA, other participating Federal agencies, and State and local officials to determine when a formal FRMAC structure and organization is no longer required. Normally, this will occur when operations move into the recovery phase and extensive Federal multi-agency resources are no longer required to augment State and local radiological monitoring and assessment activities.

5. Recovery

a. The State or local governments have the primary responsibility for planning the recovery of the affected area. (The term recovery as used here encompasses any action dedicated to the continued protection of the public and resumption of normal activities in the affected area.) Recovery planning will be initiated at the request of the States, but it will generally not take place until after the initiating conditions of the emergency have stabilized and immediate actions to protect public health and safety and property have been accomplished. The Federal Government will, on request, assist the State and local governments in developing offsite recovery plans, prior to the deactivation of the Federal response. The LFA will coordinate the overall activity of Federal agencies involved in the recovery process.

b. The radiological monitoring and assessment activities will be terminated when the EPA, after consultation with the LFA and other participating Federal agencies, and State and local officials, determines that:

(1) There is no longer a threat to the public health and safety or to the environment,
(2) State and local resources are adequate for the situation, and
(3) There is mutual agreement of the agencies involved to terminate the response.

Appendix A—Acronyms

[1] For NRC reactor licensees, the JOC is within the Emergency Operations Facility (EOF). The EOF would be staffed in accordance with the owner/operator's site specific Emergency Plan.

[2] For NRC licensees, the Federal JIC is within the JIC established by the owner/operator.

CFR Code of Federal Regulations
DFO Disaster Field Office
DOC Department of Commerce
DOD Department of Defense
DOE Department of Energy
DOI Department of the Interior
DOJ Department of Justice
DOS Department of State
DOT Department of Transportation
EICC Emergency Information and Coordination Center
E.O. Executive Order
EOC Emergency Operations Center
EPA Environmental Protection Agency
ERT Emergency Response Team
ERT-A Advance Emergency Response Team
FBI Federal Bureau of Investigation
FCO Federal Coordinating Officer
FEMA Federal Emergency Management Agency
FRERP Federal Radiological Emergency Response Plan
FRMAC Federal Radiological Monitoring and Assessment Center
FRP Federal Response Plan
FRPCC Federal Radiological Preparedness Coordinating Committee
GSA General Services Administration
HHS Department of Health and Human Services
HUD Department of Housing and Urban Development
JIC Joint Information Center
JOC Joint Operations Center
LFA Lead Federal Agency
MERRT Medical Emergency Radiological Response Team
NASA National Aeronautics and Space Administration
NCS National Communications System
NDA National Defense Area
NOAA National Oceanic and Atmospheric Administration (DOC)
NRC Nuclear Regulatory Commission
NSA National Security Area
OSC Onscene Commander
PAG Protective Action Guide
PIO Public Information Officer
RAP Radiological Assistance Program (DOE)
SCO State Coordinating Officer
SFO Senior FEMA Official
TLD thermoluminescent dosimeter
USDA United States Department of Agriculture
VA Department of Veterans Affairs

Appendix B—Definitions

Advisory Team for Environment, Food, and Health—An interagency team, consisting of representatives from EPA, HHS, USDA, and representatives from other Federal agencies as necessary, that provide advice to the LFA and States, as requested on matters associated with environment, food, and health issues during a radiological emergency.

Agreement State—A State that has entered into an Agreement under the Atomic Energy Act of 1954, as amended, in which NRC has relinquished to such States the majority of its regulatory authority over source, byproduct, and special nuclear material in quantities not sufficient to form a critical mass.

Assessment—The evaluation and interpretation of radiological measurements and other information to provide a basis for decision-making. Assessment can include projections of offsite radiological impact.

Coordinate—To advance systematically an exchange of information among principals who have or may have a need to know certain information in order to carry out their role in a response.

Disaster Field Office (DFO)—A center established in or near the designated area from which the Senior FEMA Official (SFO) and representatives of Federal response agencies will interact with State and local government representatives to coordinate non-technical resource support.

Emergency—Any natural or man-caused situation that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Emergency Response Team (ERT)—A team of Federal interagency personnel headed by FEMA deployed to the site of an emergency to serve as the SFO's key staff and assist with accomplishing FEMA responsibilities at the DFO.

Federal Coordinating Officer (FCO)—The senior Federal official appointed in accordance with the provisions of Pub. L. 93–288, as amended, to coordinate the overall response and recovery activities. The FCO represents the President as provided by sec. 303 of Pub. L. 93–288, as amended, for the purpose of coordinating the administration of Federal relief activities in the designated area. Additionally, the FCO is delegated responsibilities and performs those for the FEMA Director as outlined in E.O. 12148, as amended, and those responsibilities delegated to the FEMA Regional Director in 44 CFR Part 206.

Federal Radiological Monitoring and Assessment Center (FRMAC)—An operations center usually established near the scene of a radiological emergency from which the Federal field monitoring and assessment assistance is directed and coordinated.

Federal Radiological Preparedness Coordinating Committee (FRPCC)—An interagency committee, created by 44 CFR Part 351, to coordinate Federal radiological planning and training.

Federal Response Plan (FRP)—A plan designed to address the consequences of any disaster or emergency situation in which there is a need for Federal assistance under the authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended).

FRMAC Director—The person designated by DOE or EPA to manage operations in the FRMAC.

Joint Information Center (JIC)—A center established to coordinate the Federal public information activities onscene. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating Federal agencies should collocate at the JIC. Public information officials from participating State and local agencies also may collocate at the JIC.

Joint Operations Center (JOC)—Established by the LFA under the operational control of the OSC, as the focal point for management and direction of onsite activities, coordination/establishment of State requirements/priorities, and coordination of the overall Federal response.

Joint U.S. Government/Foreign Government Space Venture—Any space venture conducted jointly by the U.S. Government (DOD or NASA) with a foreign government or foreign governmental entity that is characterized by an ongoing U.S. Government interest in the successful completion of the mission, active involvement in mission operations, and uses radioactive sources and/or classified components, regardless of which country owns or provides said sources or components, within the space vehicle. For the purposes of this plan, in a situation whereby the U.S. Government simply sells or supplies radioactive material to a foreign country for use in a space vehicle and otherwise has no active mission involvement, it shall not be considered a joint venture.

Lead Federal Agency (LFA)—The agency which is responsible for leading and coordinating all aspects of the Federal response is referred to as the LFA and is determined by the type of emergency. In situations where a Federal agency owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency and has authority to conduct and manage Federal actions onsite, that agency normally will be the LFA.

License—An authorization issued to a facility owner or operator by the NRC pursuant to the conditions of the Atomic Energy Act of 1954 (as amended), or issued by an Agreement State pursuant to appropriate State laws. NRC licenses certain activities under section 170(a) of that Act.

Local Government—Any county, city, village, town, district, or political subdivision of any State, and Indian tribe or authorized tribal organization, or Alaska Native village or organization, including any rural community or unincorporated town or village or any other public entity.

Monitoring—The use of sampling and radiation detection equipment to determine the levels of radiation.

National Defense Area (NDA)—An area established on non-Federal lands located within the United States, its possessions or its territories, for safeguarding classified defense information or protecting DOD equipment and/or material. Establishment of a National Defense Area temporarily places such non-Federal lands under the effective control of the Department of Defense and results only from an emergency event. The senior DOD representative at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The landowner's consent and cooperation shall be obtained whenever possible; however, military necessity shall dictate the final location, shape, and size of the NDA.

National Security Area (NSA)—An area established on non-Federal lands located within the United States, its possessions or territories, for safeguarding classified information, and/or restricted data or equipment and material belonging to DOE or NASA. Establishment of a National Security Area temporarily places such non-Federal lands under the effective control of DOE or

NASA and results only from an emergency event. The senior DOE or NASA representative having custody of the material at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The landowner's consent and cooperation shall be obtained whenever possible; however, operational necessity shall dictate the final location, shape, and size of the NSA.

Nuclear Facilities—Nuclear installations that use or produce radioactive materials in their normal operations.

Offsite—The area outside the boundary of the onsite area. For emergencies occurring at fixed nuclear facilities, "offsite" generally refers to the area beyond the facility boundary. For emergencies that do not occur at fixed nuclear facilities and for which no physical boundary exists, the circumstances of the emergency will dictate the boundary of the offsite area. Unless a Federal agency has the authority to define and control a restricted area, the State or local government will define an area as "onsite" at the time of the emergency, based on required response activities.

Offsite Federal Support—Federal assistance in mitigating the offsite consequences of an emergency and protecting the public health and safety, including assistance with determining and implementing public protective action measures.

Onscene—The area directly affected by radiological contamination and environs. Onscene includes onsite and offsite areas.

Onscene Commander (OSC)—The lead official designated at the scene of the emergency to manage onsite activities and coordinate the overall Federal response to the emergency.

Onsite—The area within (a) the boundary established by the owner or operator of a fixed nuclear facility, or (b) the area established by the LFA as a National Defense Area or National Security Area, or (c) the area established around a downed/ditched U.S. spacecraft, or (d) the boundary established at the time of the emergency by the State or local government with jurisdiction for a transportation accident not occurring at a fixed nuclear facility and not involving nuclear weapons.

Onsite Federal Support—Federal assistance that is the primary responsibility of the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological facility or material being transported, i.e., the LFA. This response supports State and local efforts by supporting the owner or operator's efforts to bring the incident under control and thereby prevent or minimize offsite consequences.

Owner or Operator—The organization that owns or operates the nuclear facility or carrier or cargo that causes the radiological emergency. The owner or operator may be a Federal agency, a State or local government, or a private business.

Protective Action Guide (PAG)—A radiation exposure or contamination level or range established by appropriate Federal or State agencies at which protective actions should be considered.

Protective Action Recommendation (Federal)—Federal advice to State and local governments on measures that they should take to avoid or reduce exposure of the public to radiation from an accidental release of radioactive material. This includes emergency actions such as sheltering, evacuation, and prophylactic use of iodine. It also includes longer term measures to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway such as restriction of food, temporary relocation, and permanent resettlement.

Public Information Officer (PIO)—Official at headquarters or in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

Radiological Assistance Program (RAP) Team—A response team dispatched to the site of a radiological incident by the U.S. Department of Energy (DOE) regional coordinating office responding to a radiological incident. RAP Teams are located at DOE operations offices and national laboratories and some area offices.

Radiological Emergency—A radiological incident that poses an actual, potential, or perceived hazard to public health or safety or loss of property.

Recovery—Recovery, in this document, includes all types of emergency actions dedicated to the continued protection of the public or to promoting the resumption of normal activities in the affected area.

Recovery Plan—A plan developed by each State, with assistance from the responding Federal agencies, to restore the affected area.

Regional Operations Center (ROC)—The temporary operations facility for the coordination of Federal response and recovery activities, located at the FEMA Regional Office (or at the Federal Regional Center) and led by the FEMA Regional Director or Deputy Director until the DFO becomes operational.

Senior FEMA Official (SFO)—Official appointed by the Director of FEMA, or his representative, to direct the FEMA response at the scene of a radiological emergency.

State Coordinating Officer (SCO)—An official designated by the Governor of the affected State to work with the LFA's Onscene Commander and Senior FEMA Official in coordinating the response efforts of Federal, State, local, volunteer, and private agencies.

Subcommittee on Federal Response—A subcommittee of the Federal Radiological Preparedness Coordinating Committee formed to develop and test the Federal Radiological Emergency Response Plan. Most agencies that will participate in the Federal radiological emergency response are represented on this subcommittee.

Transportation Emergency—For the purposes of this plan, any emergency that involves a transportation vehicle or shipment containing radioactive materials outside the boundaries of a facility.

Transportation of Radioactive Materials—The loading, unloading, movement, or temporary storage en route of radioactive materials.

Appendix C—Federal Agency Response Missions, Capabilities and Resources, References, and Authorities

Each Federal agency develops and maintains a plan which describes a detailed concept of operations for implementing this Plan. This section contains summary information about the following Federal agencies:

Department of Agriculture (USDA)
Department of Commerce (DOC)
Department of Defense (DOD)
Department of Energy (DOE)
Department of Health and Human Services (HHS)
Department of Housing and Urban Development (HUD)
Department of the Interior (DOI)
Department of Justice (DOJ)
Department of State (DOS)
Department of Transportation (DOT)
Department of Veterans Affairs (VA)
Environmental Protection Agency (EPA)
Federal Emergency Management Agency (FEMA)
General Services Administration (GSA)
National Aeronautics and Space Administration (NASA)
National Communications System (NCS)
Nuclear Regulatory Commission (NRC)

Summary information for each agency contains: (1) A response mission statement, (2) a description of the agency's response capabilities and resources, (3) agency response plan and procedures references, and (4) sources of agency authority.

A. Department of Agriculture

1. Summary of Response Mission

The United States Department of Agriculture (USDA) provides assistance to State and local governments in developing agricultural protective action recommendations and in providing agricultural damage assessments. USDA actively participates with EPA and HHS on the Advisory Team for Environment, Food, and Health when convened. USDA regulatory responsibilities for the inspection of meat, meat products, poultry, poultry products, and egg products are essential uninterruptible functions that would continue during an emergency.

2. Capabilities and Resources

USDA can provide assistance to State and local governments through emergency response personnel located at its Washington, DC, headquarters and from USDA State and county Emergency Board representatives located throughout the country. USDA Emergency Board representatives have knowledge of local agriculture and can provide specific advice to the local agricultural community. In addition, USDA, State, and county Emergency Boards can assist in the collection of agricultural samples during a radiological emergency.

The functions and capabilities of the USDA to provide assistance in the event of a radiological emergency include the following:

(1) Provide assistance through regular USDA programs, if legally adaptable to radiological emergencies;

(2) Provide emergency food coupon assistance in officially designated disaster areas, if a need is determined by officials and if the commercial food system is sufficient to accommodate the use of food coupons;

(3) Assist in reallocation of USDA-donated food supplies from warehouses, local schools, and other outlets to emergency care centers. These are foods donated to various outlets through USDA food programs;

(4) Provide lists that identify locations of alternate sources of food and livestock feed and arrange for transportation of the food and feed if requested;

(5) Provide advice to State and local officials regarding the disposition of livestock and poultry contaminated by radiation;

(6) Inspect meat and meat products, poultry and poultry products, and egg products identified for interstate and foreign commerce to assure that they are safe for human consumption;

(7) Assist State and local officials, in coordination with HHS and EPA, in the recommendation and implementation of protective actions to limit or prevent the ingestion of contaminated food;

(8) Assist, in conjunction with HHS, in monitoring the production, processing, storage, and distribution of food through the wholesale level to eliminate contaminated product or to reduce the contamination in the product to a safe level;

(9) Assess damage to crops, soil, livestock, poultry, and processing facilities; and incorporate findings into a damage assessment report;

(10) Provide advice to State and local officials on minimizing losses to agricultural resources from radiation effects;

(11) Provide information and assistance to farmers, food processors, and distributors to aid them in returning to normal after a radiological emergency;

(12) Provide a liaison to State agricultural agencies if requested;

(13) Assist DOE at the FRMAC in collecting agricultural samples within the Ingestion Exposure Pathway Emergency Planning Zone. Assist in the evaluation and assessment of data to determine the impact of the emergency on agriculture;

(14) Assist in providing temporary housing for evacuees who have been displaced from their homes due to a radiological emergency; and

(15) Provide emergency communications assistance to the agricultural community through the Cooperative Extension System, an electronic mail system.

3. USDA References

USDA Radiological Emergency Response Plan, January 1988.

4. USDA Specific Authorities

(1) Title 7, U.S.C. 241–273.
(2) Title 7, U.S.C. 341–349.
(3) Title 7, U.S.C. 612 C.
(4) Title 7, U.S.C. 612 C Note.
(5) Title 7, U.S.C. 1431.
(6) Title 7, U.S.C. 1622.
(7) Title 7, U.S.C. 2014(h).
(8) Title 7, U.S.C. 2204.
(9) Title 16, U.S.C. 590 a–f.
(10) Title 21, U.S.C. 451 et seq.
(11) Title 21, U.S.C. 601 et seq.
(12) Title 21, U.S.C. 1031–1056.
(13) Title 42, U.S.C. 1480.
(14) Title 42, U.S.C. 3271–3274.
(15) Title 50, U.S.C. Appendix 2251 et seq.
(16) Title 7, CFR 2.51 (a)(30).
(17) E.O. 12656, November 18, 1988.
(18) DR 1800–1, March 5, 1993.

B. Department of Commerce

1. Summary of Response Mission

The National Oceanic and Atmospheric Administration (NOAA) is the primary agency within the Department of Commerce (DOC) responsible for providing assistance to the Federal, State, and local organizations responding to a radiological emergency. Other assistance may be provided by the National Institute of Standards and Technology. DOC's responsibilities include:

(1) Acquiring and disseminating weather data and providing weather forecasts in direct support of the emergency response operation;

(2) Preparing and disseminating predictions of plume trajectories, dispersion, and deposition of radiological material released into the atmosphere;

(3) Providing local meteorological support as needed to assure the quality of these predictions;

(4) Organizing and maintaining a special data archive for meteorological information related to the emergency and its assessment;

(5) Ensuring that marine fishery products available to the public are not contaminated;

(6) Providing assistance and reference material for calibrating radiological instruments; and

(7) Loaning radiation shielding materials.

2. Capabilities and Resources

NOAA is the principal DOC participant in the response to a radiation accident. NOAA prepares both routine and special weather forecasts, and makes use of these forecasts to predict atmospheric transport and dispersion. NOAA's forecasts may be the basis for all public announcements on the movement of contamination from accidents occurring outside U.S. territory or during domestic accidents when any released radioactive material is expected to be carried offsite. NOAA has capabilities to do the following:

(1) Provide current and forecast meteorological information as needed to guide aerial monitoring and sampling, and to predict the transport and dispersion of radioactive materials (gases, liquids, and particles).

(2) Routinely forecast the atmospheric transport, dispersion, and deposition of the radioactive materials, and disseminate the results of these computations via automatic facsimile to all relevant parties, twice per day.

(3) Produce (and archive) special high-resolution meteorological data sets for providing an improved capability to predict atmospheric transport and dispersion of radioactive materials in the atmosphere.

(4) Augment routine and special upper atmosphere and surface meteorological observation systems, as required to improve the quality of these predictions.

(5) Evaluate NOAA's transport and dispersion forecast products in conjunction with those of other nations' weather services responding to the emergency, to provide a more internationally consistent product.

Additionally, DOC may provide support to HHS at its request, through the National Marine Fisheries Service, in order to avoid human consumption of contaminated commercial fishery products (marine area only). The National Institute of Standards and Technology can assist in calibrating radiological instruments by comparison with national standards or by providing standard reference materials for calibration, as well as making extensive data on the physical properties of materials available. The National Institute of Standards and Technology can also supply temporary radiation shielding materials.

3. DOC References

National Plan for Radiological Emergencies at Commercial Nuclear Power Plants. Federal Coordinator for Meteorological Services and Supporting Research, National Oceanic and Atmospheric Administration, November 1982.

4. DOC Specific Authorities

Department of Commerce Organization Order 25–5B, as amended, June 18, 1987.

C. Department of Defense

1. Summary of Response Mission

The Department of Defense (DOD) is charged with the safe handling, storage, maintenance, assembly, and transportation of nuclear weapons and other radioactive materials in DOD custody, and with the safe operation of DOD nuclear facilities. Inherent in this responsibility is the requirement to protect life and property from any health or safety hazards that could ensue from an accident or significant incident associated with these materials or activities.

The DOD role in a Federal response will depend on the circumstances of the emergency. DOD will be the LFA if the emergency involves one of its facilities or a nuclear weapon in its custody. Within DOD, the military service or agency responsible for the facility, ship, or area is responsible for the onsite response. The military service or agency having custody of the material outside an installation boundary is responsible for the onsite response. For emergencies occurring under circumstances for which DOD is not responsible, DOD will not be the LFA, but will support and assist in the Federal response.

2. Capabilities and Resources

Offsite authority and responsibility at a nuclear accident rest with State and local officials. It is important to recognize that for nuclear weapons or weapon component accidents, land may be temporarily placed under effective Federal control by the establishment of a National Defense Area or National Security Area to protect U.S. Government classified materials. These lands will revert back to State control upon disestablishment of the National Defense Area or National Security Area.

DOD has a trained and equipped nuclear response organization to deal with accidents at its facilities or involving materials in its custody. Radiological resources include trained response personnel, specialized radiation instruments, and mobile instrument calibration and repair capabilities. DOD also may perform special sampling of airborne contamination on request. Descriptions of the capabilities and assets of DOD response teams can be found in DOD 5100.52M.

DOD may provide assistance in the form of personnel, logistics and telecommunications, assistance and expertise in site restoration, including airlift services, when available, upon the request of the LFA or FEMA. Requests for assistance must be directed to the National Military Command Center or through channels established by prior agreements.

3. DOD References

(1) DOD Directive 5100.52, DOD Response to an Accident or Significant Incident Involving Radiological Materials.

(2) DOD Directive 5230.16, Nuclear Accident and Incident Public Affairs Guidance.

(3) DOD Directive 3025.1, Military Support to Civil Authorities.

(4) DOD Directive 3025.12, Military Assistance for Civil Disturbances.

(5) DOD Directive 3150.5, DOD Response to Improvised Nuclear Device (IND) Incident.

(6) DOD 5100.52M, Nuclear Weapon Accident Response Procedures (NARP) Manual.

(7) Joint Federal Bureau of Investigation, Department of Energy, and Department of Defense Agreement for Response to Improvised Nuclear Device Incidents.

4. DOD Specific Authorities

(1) The Atomic Energy Act of 1954, as amended.

(2) Pub. L. 97–351 "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982."

(3) Department of Defense, Department of Energy, Federal Emergency Management Agency Memorandum of Agreement of Response to Nuclear Weapon Accidents and Nuclear Weapon Significant Incidents, 1983.

D. Department of Energy

1. Summary of Response Mission

The Department of Energy (DOE) owns and operates a variety of radiological activities throughout the United States. These activities include: fixed nuclear sites; the use, storage, and shipment of a variety of radioactive materials; the shipment of spent reactor fuel; the production, assembly, and shipment of nuclear weapons and special nuclear materials; the production and shipment of radioactive sources for space ventures; and the storage and shipment of radioactive and mixed waste. DOE is responsible for the safe operation of these activities and should an emergency occur at one of its sites or an activity under its control, DOE will be the LFA for the Federal response.

Due to its technical capabilities and resources, the DOE may perform other roles within the Federal response to a radiological emergency. With extensive, field-based radiological resources throughout the United States available for emergency deployment, the DOE responds to requests for offsite radiological monitoring and assessment assistance and serves as the initial coordinator of all such Federal assistance (to include initial management of the FRMAC) to State and local governments. With other specialized, deployable assets, DOE assists other Federal agencies responding to malevolent nuclear emergencies, accidents involving nuclear weapons not under DOE custody, emergencies caused by satellites containing radioactive sources, and other radiological incidents as appropriate.

2. Capabilities and Resources

DOE has trained personnel, radiological instruments, mobile laboratories, and radioanalytical facilities located at its national laboratories, production, and other facilities throughout the country. Through eight Regional Coordinating Offices, these resources form the basis for the Radiological Assistance Program, which can provide technical assistance in any radiological emergency. DOE can provide specialized radiation detection instruments and support for both its response as LFA and as initial coordinator of Federal radiological monitoring and assessment assistance. Some of the specialized resources and capabilities include:

(1) Aerial monitoring capability for tracking dispersion of radioactive material and mapping ground contamination;

(2) A computer-based, emergency preparedness and response predictive capability that provides rapid predictions of the transport, diffusion, and deposition of radionuclides released to the atmosphere and dose projections to people and the environment;

(3) Specialized equipment and instruments and response teams for locating radioactive materials and handling damaged nuclear weapons;

(4) Medical experts on radiation effects and the treatment of exposed or contaminated patients; and

(5) Support facilities for DOE response, including command post supplies, communications systems, generators, and portable video and photographic capabilities.

3. DOE References

(1) DOE Order 5500.1B, Emergency Management System, April 1991.

(2) DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 1991.

(3) DOE Order 5500.3A, Planning and Preparedness for Operational Emergencies, April 1991.

(4) DOE Order 5500.4, Public Affairs Policy and Planning Requirements for Emergencies, August 1981.

(5) DOE Order 5530.1A, Accident Response Group, September 1991.

(6) DOE Order 5530.2, Nuclear Emergency Search Team, September 1991.

(7) DOE Order 5530.3, Radiological Assistance Program, January 1992.

(8) DOE Order 5530.4, Aerial Measuring System, September 1991.

(9) DOE Order 5530.5, Federal Radiological Monitoring and Assessment Center, July 1992.

4. DOE Specific Authorities

(1) Atomic Energy Act of 1954 as amended.

(2) Energy Reorganization Act of 1974 (Pub. L. 93–438).

(3) Department of Energy Organization Act of 1977 (Pub. L. 95–91).

(4) Nuclear Waste Policy Act of 1982 (Pub. L. 97–425).

(5) Title 44, CFR, Part 351, Radiological Emergency Planning and Preparedness, March 1982.

E. Department of Health and Human Services

1. Summary of Response Mission

In a radiological emergency, the Department of Health and Human Services (HHS) assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential health/medical and human services. Overall, HHS emergency response is coordinated by the Office of the Assistant Secretary for Health, Office of Emergency Preparedness. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to Federal, State, and local governments. The principal HHS response comes from the U.S. Public Health Service. HHS actively participates with EPA and USDA on the Advisory Team for Environment, Food, and Health when convened.

2. Capabilities and Resources

HHS has personnel located at headquarters, regional offices, and at laboratories and other facilities who can provide assistance in radiological emergencies. The agency can provide the following kinds of advice, guidance, and assistance:

(1) Assist State and local government officials in making evacuation and relocation decisions;

(2) Ensure the availability of health and medical care and other human services (especially for the aged, the poor, the infirm, the blind, and others most in need);

(3) Provide advice and guidance in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;

(4) Assist in providing crisis counseling to victims in affected geographic areas;

(5) Provide guidance on the use of radioprotective substances (e.g., thyroid blocking agents), including dosage, and also projected radiation doses that warrant the use of such drugs;

(6) In conjunction with DOE and DOD, advise medical personnel on proper medical treatment of people exposed to or contaminated by radioactive materials;

(7) Recommend Protective Action Guides for food and animal feed and assist in developing technical recommendations on protective measures for food and animal feed; and

(8) Provide guidance to State and local health officials on disease control measures and epidemiological surveillance and study of exposed populations.

3. HHS References

(1) 55 FR 2879, January 29, 1990—Delegations of authority to the Assistant

Secretary for Health for department-wide emergency preparedness functions.

(2) 55 FR 2885, January 29, 1990—Statement of organization, functions and delegations of authority to the Office of Emergency Preparedness.

(3) Federal Response Plan, Emergency Support Functions #8 (Health and Medical Services), April 1992.

(4) Disaster Response Guides, Operating Divisions, Various Dates.

4. HHS Specific Authorities

(1) Public Health Service Act.

(2) Food, Drug, and Cosmetic Act of 1938.

(3) Snyder Act, 25 U.S.C. 13 (1921).

(4) Transfer Act (Pub. L. 83–568).

(5) Indian Health Care and Improvement Act (Pub. L. 14–437).

(6) Federal Civil Defense Act of 1950.

(7) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (SUPERFUND) (Pub. L. 96–510) as amended by the SUPERFUND Amendments and Reauthorization Act of 1986 (Pub. L. 99–499) (1986).

(8) 42 U.S.C. 3030—§ 310 of the Older Americans Act.

(9) 42 U.S.C. 601 et seq.—§ 401 et seq. of the Social Security Act.

(10) 45 CFR 233.120—Emergency Community Services Homeless Grant Program.

(11) 45 CFR 233.120—AFDC Emergency Assistance Program.

(12) 45 CFR 233.20 (a)(2)(v)—AFDC Special Needs Allowance.

(13) Runaway and Homeless Youth Act (as amended), § 366(0).

(14) Omnibus Budget Reconciliation Act of 1981, Title XXVI (as amended by Pub. L.'s 98–558, 99–425, 101–501, 101–517)—Low Income Home Energy Assistance Program.

(15) E.O. 12656, National Security Emergency Preparedness—Part 8.

F. Department of Housing and Urban Development

1. Summary of Response Mission

The Department of Housing and Urban Development (HUD) provides information on available housing for disaster victims or displaced persons. HUD assists in planning for and placing homeless victims by providing emergency housing and technical and support staff within available resources.

2. Capabilities and Resources

HUD has capabilities to do the following:

(1) Review and report on available housing for disaster victims and displaced persons;

(2) Assist in planning for and placing homeless victims in available housing;

(3) Provide staff to support emergency housing within available resources; and

(4) Provide technical housing assistance and advisory personnel.

3. HUD References

HUD Handbook 3200.02, REV–3, "Disaster Response and Assistance."

4. HUD Specific Authorities

HUD housing programs provide the Department some discretion, to the extent permissible by law, in granting waivers of eligibility requirements to disaster-displaced families. These programs provide rental housing assistance, HUD/FHA-insured loans to repair and rebuild homes, and HUD/FHA-insured loans to purchase new or existing housing, under the following authorities:

(1) National Housing Act, as amended.

(2) United States Housing Act of 1977, as amended.

(3) Housing and Community Development Act of 1974.

(4) National Affordable Housing Act of 1990 (Pub. L. 101–625).

G. Department of the Interior

1. Summary of Response Mission

The Department of the Interior (DOI) manages over 500 million acres of Federal lands and thousands of Federal natural resources facilities and is responsible for these lands and facilities, as well as other natural resources such as endangered and threatened species, migratory birds, anadromous fish, and marine mammals, when they are threatened by a radiological emergency. In addition, DOI coordinates emergency response plans for DOI-managed refuges, parks, recreation areas, monuments, public lands, and Indian trust lands with State and local authorities; operates its water resources projects to protect municipal and agricultural water supplies in cases of radiological emergencies; and provides advice and assistance concerning hydrologic and natural resources, including fish and wildlife, to Federal, State, and local government upon request. DOI also administers the Federal Government's trust responsibility for 512 Federally recognized Indian tribes and villages, and about 50 million acres of Indian lands. The Bureau of Indian Affairs of the Department of the Interior is available to assist other agencies in consulting with these tribes about radiological emergency preparedness and responses to emergencies. DOI also has certain responsibilities for the island territories of the United States.

2. Capabilities and Resources

DOI has personnel at headquarters and in regional offices with technical expertise to do the following:

(1) Advise and assist in assessing the nature and extent of radioactive releases to water resources including support of monitoring personnel, equipment, and laboratory analytical capabilities.

(2) Advise and assist in evaluating processes affecting radioisotopes in soils, including personnel, equipment, and laboratory support.

(3) Advise and assist in the development of geographical information systems (GIS) databases to be used in the analysis and assessment of contaminated areas including personnel, equipment, and databases.

(4) Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.

(5) Advise and assist in assessing and minimizing offsite consequences on natural resources, including fish and wildlife, land reclamation, mining, and mineral expertise.

(6) Advise and assist the Territories of Guam, American Samoa, and the Virgin Islands and the Trust Territory of the Pacific Islands (interim) on economic, social, and political matters.

(7) Coordinate and provide liaison between Federal, State, and local agencies and Federally recognized Indian tribal governments on questions of radiological emergency preparedness and responses to incidents.

3. DOI References

(1) 910 DM 5 (Draft)—Interior Emergency Operations, Federal Radiological Emergency Response Plan.

(2) 296 DM 3 (Draft)—Interior Emergency Delegations, Radiological Emergencies.

4. DOI Specific Authorities

(1) Organic Act of 1879 providing for "surveys, investigations, and research covering the topography, geology, hydrology, and the mineral and water resources of the United States." (43 U.S.C. 31) (USGS).

(2) Appropriations Act of 1894 providing for gaging streams and assessment of water supplies of the U.S. (28 Stat. 398) (USGS).

(3) OMB Circular A–67 (1964) giving DOI (USGS) responsibility "* * * for the design and operation of the national network for acquiring data on the quantity and quality of surface ground waters * * *" (USGS).

(4) The Reclamation Act of 1902, as amended (43 U.S.C. 391), and project authorization acts (BuRec).

(5) National Park Service Act of 1916 (16 U.S.C. 1 et seq) and park enabling acts (NPS).

(6) The Snyder Act of 1921, as amended (25 U.S.C. 13) DOI shall direct, supervise, and expend such monies appropriated by Congress for the benefit, care, and assistance of Indians throughout the United States for such purposes as the relief of distress, and conservation of health, for improvement of operation and maintenance of existing Indian irrigation and water supply systems * * * etc. (BIA).

(7) National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and refuge enabling acts (FWS).

(8) Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) (BLM).

(9) Endangered Species Act (1973), Federal agencies may not jeopardize the continued existence of endangered or threatened species (FWS).

(10) Migratory Bird Treaty Act (1918), Prohibits the taking of migratory birds without permits (FWS).

(11) Anadromous Fish Conservation Act, Reestablishes anadromous fish habitat (FWS).

(12) Marine Mammal Protection Act (1972), Conserves marine mammals with management of certain species vested in DOI (FWS).

H. Department of Justice

1. Summary of Response Mission

The Department of Justice (DOJ) is the lead agency for coordinating the Federal response to acts of terrorism in the United States and U.S. territories. Within the DOJ, the Federal Bureau of Investigation (FBI) will manage the law enforcement aspect of the Federal response to such incidents. The FBI also is responsible for investigating all alleged or suspected criminal violations of the Atomic Energy Act of 1954, as amended.

2. Capabilities and Resources

The FBI will coordinate all law enforcement operations including intelligence gathering, hostage negotiations, and tactical operations.

3. DOJ References

(1) Memorandum of Understanding between DOJ, DOD, and DOE for Responding to Domestic Malevolent Nuclear Weapons Emergencies.

(2) Federal Bureau of Investigation Nuclear Incident Response Plan.

(3) Memorandum of Understanding between DOE and the FBI for Responding to Nuclear Threat Incidents.

(4) Memorandum of Understanding between the FBI and the NRC Regarding Nuclear Threat Incidents Involving NRC-Licensed Facilities, Materials, or Activities.

(5) Memorandum of Understanding between DOE, FBI, White House Military Office, and the U.S. Secret Service Regarding Nuclear Incidents Concerning the Office of the President and Vice President of the United States.

(6) Joint Federal Bureau of Investigation, Department of Energy, and Department of Defense Agreement for Response to Improvised Nuclear Device Incidents.

4. DOJ Specific Authorities

(1) Title 42, U.S.C., § 2011–2284 (Atomic Energy Act of 1954, as amended).

(2) Title 18, U.S.C., § 831 (Prohibited Transactions Involving Nuclear Materials).

I. Department of State

1. Summary of Response Mission

The Department of State (DOS) is responsible for the conduct of relations between the U.S. Government and other governments and international organizations and for the protection of U.S. interests and citizens abroad.

In a radiological emergency outside the United States, DOS is responsible for coordinating U.S. Government actions concerning the event in the country where it occurs (including evacuation of U.S. citizens, if necessary) and internationally. Should the FRERP be invoked due to the need for domestic action, DOS will continue to hold this role within the FRPCC structure. Specifically, DOS will coordinate foreign information-gathering activities and, in particular, conduct all contacts with foreign governments except in cases where existing bilateral agreements permit direct agency-to-agency cooperation. In the latter situation, the U.S. agency will keep DOS fully informed of all communications.

In a domestic radiological emergency with potential international trans-boundary consequences, DOS will coordinate all contacts with foreign governments and agencies except where existing bilateral agreements provide for direct exchange of information. DOS is responsible for conveying the U.S. Government response to foreign offers of assistance.

2. Capabilities and Resources

The State Department maintains embassies, missions, interest sections (in countries where the United States does not have diplomatic relations), and consulates throughout the world. The State Department Operations Center is capable of secure, immediate, around-the-clock communications with diplomatic posts. The diplomatic personnel stationed at a post are knowledgeable of local factors important to clear and concise communication, and frequently speak the local language. The Ambassador is the President's personal representative to the host government, and his country team is responsible for coordinating official contacts between the U.S. Government and the host government or international organization.

3. DOS References

Task Force Manual for Crisis Management (rev. 11 January 1990).

4. DOS Specific Authorities

(1) Presidential Directive/NSC–27 (PD–27) of January 19, 1978.

(2) 22 U.S.C. 2656.

(3) 22 U.S.C. 2671(a)(92)(A).

J. Department of Transportation

1. Summary of Response Mission

The Department of Transportation (DOT) Radiological Emergency Response Plan for Non-Defense Emergencies provides assistance to State and local governments when a radiological emergency adversely affects one or more transportation modes and the States or local jurisdictions requesting assistance have inadequate technical and logistical resources to meet the demands created by a radiological emergency.

2. Capabilities and Resources

DOT can assist Federal, State, and local governments with emergency transportation needs and contribute to the response by assisting with the control and protection of transportation near the area of the emergency. DOT has capabilities to do the following:

(1) Support State and local governments by identifying sources of civil transportation on request and when consistent with statutory responsibilities.

(2) Coordinate the Federal civil transportation response in support of emergency transportation plans and actions with State and local governments. (This may include provision of Federally controlled transportation assets and the controlling of transportation routes to protect commercial transportation and to facilitate the movement of response resources to the scene.)

(3) Provide Regional Emergency Transportation Coordinators and staff to assist State and local authorities in planning and response.

(4) Provide technical advice and assistance on the transportation of radiological materials and the impact of the incident on the transportation system.

(5) Provide exemptions from normal transportation hazardous materials regulations if public interest is best served by allowing shipments to be made in variance with the regulations. Most exemptions are issued following public notice procedures, but if emergency conditions exist, DOT can issue emergency exemptions by telephone.

(6) Control airspace, including the imposition of Temporary Flight Restrictions and issuance of Notices to Airmen (NOTAMS), both to give priority to emergency flights and protect aircraft from contaminated airspace.

DOT is responsible for dealing with the International Atomic Energy Agency and foreign Competent Authorities on issues related to packaging and other standards for the international transport of radioactive materials. If a transport accident involves international shipments of radioactive materials, DOT will be the point of contact for dealing with the transportation authorities of the foreign country that offered the material for transport in the United States.

3. DOT References

(1) Department of Transportation Radiological Emergency Response Plan for Non-Defense Emergencies, August 1985.

(2) DOT Order 1900.8, Department of Transportation Civil Emergency Preparedness Policies and Program(s).

(3) DOT Order 1900.7D, Crisis Action Plan.

(4) Transportation Annex (Emergency Support Function #1), Federal Response Plan.

4. DOT Specific Authorities

(1) 49 U.S.C. 301.

(2) 44 CFR 351, Radiological Emergency Planning and Preparedness Final Regulations, § 351.25, the Department of Transportation.

K. Department of Veterans Affairs

1. Summary of Response Mission

The Department of Veterans Affairs (VA) can assist other Federal agencies, State and local governments, and individuals in an emergency by providing immediate and long-term medical care, including management of radiation trauma, as well as first aid, at its facilities or elsewhere. VA can make available repossessed VA mortgaged homes to be used for housing for affected individuals. VA can manage a system of disposing of the deceased. VA can provide medical, biological, radiological, and other technical guidance for response and recovery reactions. Generally, none of these actions will be taken unilaterally but at the request of a responsible senior Federal official and with appropriate external funding.

2. Capabilities and Resources

In addition to the capabilities listed above, VA:

(1) Operates almost 200 full-facility hospitals and outpatient clinics throughout the United States;

(2) Has almost 200,000 employees with broad medical, scientific, engineering and design, fiscal, and logistical capabilities;

(3) Manages the National Cemetery System in 38 States;

(4) May have a large inventory of repossessed homes (this inventory varies according to economic trends);

(5) Is one of the Federal managers of the National Disaster Medical System;

(6) Is a participant in the VA/DOD contingency plan for Medical Backup in times of national emergency;

(7) Has the capability to manage the medical effects of radiation trauma using the

VA's Medical Emergency Radiological Response Teams (MERRTs); and

(8) Has a fully equipped emergency center with multi-media communications at the Emergency Medical Preparedness Office (EMPO).

3. VA References

MP–1, Part II, Chapter 13 (Emergency Preparedness Plan), March 20, 1985, as revised.

4. VA Specific Authorities

(1) Federal Civil Defense Act of 1950, as amended.

(2) National Security Decision Directive Number 47 (NSDD–47), July 22, 1982, Emergency Mobilization Preparedness.

(3) National Security Decision Directive Number 97 (NSDD–97), June 13, 1982, National Security Telecommunications Policy.

(4) National Plan of Action for Emergency Mobilization Preparedness.

(5) Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, Pub. L. 97–174, May 4, 1982.

(6) E.O. 12656, Assignment of Emergency Preparedness Responsibilities, November 18, 1988.

(7) E.O. 12657, Federal Emergency Management Agency Assistance, Emergency Preparedness Planning at Commercial Nuclear Power Plants, November 23, 1988.

L. Environmental Protection Agency

1. Summary of Response Mission

The Environmental Protection Agency (EPA) assists Federal, State, and local governments during radiological emergencies by providing environmental and water supply monitoring, recommending protective actions, and assessing the consequences of radioactivity releases to the environment. These services may be provided at the request of the Federal or State Government, or EPA may respond to an emergency unilaterally in order to fulfill its statutory responsibility. EPA actively participates with USDA and HHS on the Advisory Team when convened.

2. Capabilities and Resources

EPA can provide personnel, resources, and equipment (including mobile monitoring laboratories) from its facilities in Montgomery, AL, and Las Vegas, NV, and technical support from Headquarters and regional offices. EPA has capability to do the following:

(1) Direct environmental monitoring activities and assess the environmental consequences of radioactivity releases.

(2) Develop Protective Action Guides.

(3) Recommend protective actions and other radiation protection measures.

(4) Recommend acceptable emergency levels of radioactivity and radiation in the environment.

(5) Prepare health and safety advice and information for the public.

(6) Assist in the preparation of long-term monitoring and area restoration plans; and recommend clean-up criteria.

(7) Estimate effects of radioactive releases on human health and environment.

(8) Provide nationwide environmental monitoring data from the Environmental Radiation Ambient Monitoring Systems for assessing the national impact of the emergency.

3. EPA References

(1) U.S. Environmental Protection Agency Radiological Emergency Response Plan, Office of Radiation Programs, December 1986.

(2) Letter of Agreement between DOE and EPA for Notification of Accidental Radioactivity Releases into the Environment from DOE Facilities, January 8, 1978.

(3) Letter of Agreement between NRC and EPA for Notification of Accidental Radioactivity Releases to the Environment from NRC Licensed Facilities, July 28, 1982.

(4) Operational Response Procedures Developed Between NRC, EPA, HHS, DOE, and USDA, 1986.

(5) Manual of Protective Action Guides and Protective Actions for Nuclear Incidents, Office of Radiation Programs, January 1990.

(6) Memorandum of Understanding Between the Federal Emergency Management Agency and the Environmental Protection Agency Concerning the Use of High Frequency Radio for Radiological Emergency Response 1981, Office of Radiation Programs, EPA.

4. EPA Specific Authorities

(1) Atomic Energy Act of 1954, as amended 42 U.S.C. 2011 et seq. (1970), and Reorganization Plan #3 of 1970.

(2) Public Health Service Act, as amended, 42 U.S.C. 241 et seq. (1970).

(3) Safe Drinking Water Act, 42 U.S.C. 300f et seq. (1974).

(4) Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (1977).

(5) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (SUPERFUND) (Pub. L. 96–510) as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499) (1986).

M. Federal Emergency Management Agency

1. Summary of Response Mission

The Federal Emergency Management Agency (FEMA) is responsible for coordinating offsite Federal response activities and Federal assistance to State and local governments for functions other than radiological monitoring and assessment. FEMA's coordination role is to promote an effective and efficient response by Federal agencies at both the national level and at the scene of the emergency. FEMA coordinates the activities of Federal, State, and local agencies at the national level through the use of its Emergency Support Team and at the scene of the emergency with its Emergency Response Team.

2. Capabilities and Resources

FEMA will provide personnel who are experienced in disaster assistance to establish and operate the DFO; public information officials to coordinate public information activities; personnel to coordinate reporting to the White House and liaison with the Congress; and personnel experienced in information support for the Federal response. FEMA personnel are familiar with the capabilities of other Federal agencies and can aid the States and other Federal agencies in obtaining the assistance they need. FEMA will:

(1) Coordinate assistance to State and local governments among the Federal agencies;

(2) Coordinate Federal agency response activities, except those pertaining to the FRMAC, and coordinate these with the activities of the LFA;

(3) Work with the LFA to coordinate the dissemination of public information concerning Federal emergency response activities. Promote the coordination of public information releases with State and local governments, appropriate Federal agencies, and appropriate private sector authorities; and

(4) Help obtain logistical support for Federal agencies.

3. FEMA References

(1) FEMA Emergency Response Operations for Extraordinary Situations; Emergency Support Team Policy and Operations Response Procedures, February 8, 1984.

(2) Guidance for Emergency Response Team Planning, July 31, 1985.

(3) Emergency Response Team Plans for FEMA Regions I, II, III, IV, V, VI, VII, VIII, IX, and X, various dates.

(4) NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident (NUREG–0981/FEMA–51), Rev. 1, February 1985.

(5) Memorandum of Understanding for Incident Response between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

(6) Department of Defense, Department of Energy, Federal Emergency Management Agency Memorandum of Agreement of Response to Nuclear Weapon Accidents and Nuclear Weapon Significant Incidents, 1983.

4. FEMA Specific Authorities

(1) E.O. 12148, July 20, 1979.

(2) E.O. 12241, September 29, 1980.

(3) E.O. 12474, April 3, 1984.

(4) E.O. 12656, November 18, 1988.

(5) E.O. 12657, November 18, 1988.

(6) 44 CFR 351, Radiological Emergency Planning and Preparedness (March 11, 1982).

(7) 44 CFR 352, Commercial Nuclear Power Plants: Emergency Preparedness Planning (August 2, 1989).

(8) Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended, November 23, 1988.

N. General Services Administration

1. Summary of Response Mission

The General Services Administration (GSA) is responsible to direct, coordinate, and provide logistical support of other Federal agencies. GSA, in accordance with the National Plan for Telecommunications Support During Non-Wartime Emergencies, manages the provision and operations of telecommunications and automated data processing services. A GSA employee, the Federal Emergency Communications Coordinator (FECC), in accordance with appropriate regulations and plans, is

appointed to perform communications management functions.

2. Capabilities and Resources

GSA provides acquisition and procurement of floor space, telecommunications and automated data processing services, transportation, supplies, equipment, material; it also provides specified logistical services which exceed the capabilities of other Federal agencies. GSA also provides contracted advisory and support services to Federal agencies and provides security services on Federal property leased by or under the control of GSA. GSA will identify a Regional Emergency Communications Planner (RECP) and FECC, when required, for each of the 10 standard Federal regions. GSA will authorize the RECP to provide technical support and to accept guidance from the FEMA Regional Director during the pre-deployment phase of a telecommunications emergency. The GSA Regional Emergency Coordinator will coordinate all the services provided. Upon request of the Senior FEMA Official (SFO) through the Regional Emergency Coordinator, GSA will dispatch the FECC to the disaster site to expedite the provision of the telecommunications services.

3. Funding

GSA is not funded by Congressional appropriations. All requests for support are funded by the requestor in accordance with normal procedures or existing agreements.

4. GSA References

(1) Memorandum of Understanding between GSA and FEMA Pertaining to Disaster Assistance Programs, Superfund Relocation Program, and Federal Radiological Emergency Response Plan Programs, February 2, 1989.

(2) GSA Orders in the 2400 Series (Emergency Management).

(3) National Communications System Plan for Telecommunications Support to Non-Wartime Emergencies, January 1992.

(4) National Telecommunications System Telecommunication Procedures Manuals.

5. GSA Specific Authorities

(1) The Federal Property and Administrative Services Act of 1947, as amended, 40 U.S.C., 471 et seq.

(2) The Communications Act of 1934, 47 U.S.C. 390 et seq.

(3) The Defense Production Act of 1950, as amended, 50 APP., 2061 et seq.

(4) E.O. 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984.

(5) Federal Acquisition Regulations, 48 CFR 1.

(6) The General Services Administration Acquisition Regulations.

(7) Federal Property Management Regulations.

(8) Federal Travel Regulations.

O. National Aeronautics and Space Administration

1. Summary of Response Mission

The role of the National Aeronautics and Space Administration (NASA) in a Federal response will depend on the circumstances of the emergency. NASA will be the LFA and will coordinate the initial response and support of other agencies as agreed to in specific interagency agreements when the launch vehicle or payload carrying the nuclear source is a NASA responsibility.

2. Capabilities and Resources

NASA has launch facilities and the ability to provide launch vehicle and space craft telemetry data through its tracking and data network. NASA also has the capability to provide limited radiological monitoring and emergency response from its field centers in Florida, Alabama, Maryland, Virginia, Ohio, Texas, and California.

3. NASA References

(1) KHB 1860.1A KSC Ionizing Radiation Protection Program.

(2) Interagency Agreement between AEC (now DOE) and NASA concerning Isotope SNAP Devices for NASA Space Vehicles with supplements.

4. NASA Specific Authorities

(1) National Aeronautics and Space Act of 1958, as amended.

(2) NHB 1700.1 (V1–A) Basic Safety Manual.

(3) 14 CFR 1200 to END "National Aeronautic and Space Administration."

P. National Communications System

1. Summary of Response Mission

Under the National Plan for Telecommunications Support in Non-Wartime Emergencies, the Manager, National Communications System (NCS) is responsible for adequate telecommunications support to the Federal response and recovery operations. The Manager, NCS, will identify, upon the request of the Senior FEMA Official, a Communications Resource Manager from the NCS/National Coordinating Center (NCC) staff when any of the following conditions exist: (1) When local telecommunications vendors are unable to satisfy all telecommunications service requirements; (2) when conflicts between multiple Federal Emergency Communications Coordinators occur; or (3) if the allocation of available resources cannot be fully accomplished at the field level. The Manager, NCC, will monitor all extraordinary situations to determine that adequate national security emergency preparedness telecommunications services are being provided to support the Federal response and recovery operations.

2. Capabilities and Resources

NCS can provide the expertise and authority to coordinate the communications for the Federal response and to assist appropriate State agencies in meeting their communications requirements.

3. NCS References

(1) National Plan for Telecommunications Support in Non-Wartime Emergencies, September 1987.

(2) Memorandum of Understanding, GSA and FEMA, February 1989.

(3) E.O. 12046, as amended, (Relates to the transfer of telecommunications functions), March 27, 1978.

4. NCS Specific Authorities

(1) E.O. 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984.

(2) E.O. 12656, November 18, 1988.

(3) E.O. 12046, as amended, March 27, 1978.

(4) White House Memorandum, National Security and Emergency Preparedness: Telecommunications and Management and Coordination Responsibilities, July 5, 1978.

Q. Nuclear Regulatory Commission

1. Summary of Response Mission

The U.S. Nuclear Regulatory Commission (NRC) regulates the use of byproduct, source, and special nuclear material, including activities at commercial and research nuclear facilities. If an incident involving NRC-regulated activities poses a threat to the public health or safety or environmental quality, the NRC will be the LFA. In such an incident, the NRC is responsible for monitoring the licensee to ensure that appropriate protective action recommendations are being made to offsite authorities in a timely manner. In addition, the NRC will support its licensees and offsite authorities, including confirming the licensee's recommendations to offsite authorities.

Consistent with NRC's agreement to participate in FRMAC, the NRC may also be called upon to assist in Federal radiological monitoring and assessment activities during incidents for which it is not the LFA.

2. Capabilities and Resources

(1) The NRC has trained personnel who can assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety and provide advice, when requested, to the State and local agencies with jurisdiction based on this assessment.

(2) The NRC can assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments with jurisdiction that consider, as required, all substantive views of other Federal agencies.

(3) The NRC has a system of direct-reading thermoluminescent dosimeters (TLD) established around every commercial nuclear power reactor in the country. The NRC can retrieve and exchange these TLDs promptly and obtain immediate readings onscene.

3. NRC References

(1) NRC Incident Response Plan Revision 2 (NUREG–0728), NRC Office for Analysis and Evaluation of Operational Data, June 1987.

(2) Regions I through V Supplements to NUREG–0845, 1990.

(3) NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident, (NUREG–0981; FEMA–51), Rev. 1, February 1985.

(4) Operational Response Procedures Developed between NRC, EPA, HHS, DOE, and USDA, 1986.

(5) Memorandum of Understanding for Incident Response between the Federal

Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

(6) Memorandum of Understanding Between the FBI and the NRC Regarding Nuclear Threat Incidents Involving NRC-Licensed Facilities, Materials, and Activities, March 13, 1991.

(7) NUREG/BR–0150, "Response Technical Manual," November 1993.

(8) NUREG–1442 (Rev. 1)/FEMA–REP–17 (Rev. 1), "Emergency Response Resources Guide," July 1992.

(9) NUREG–1467, "Federal Guide for a Radiological Response: Supporting the Nuclear Regulatory Commission During the Initial Hours of a Serious Accident," November 1993.

(10) NUREG–1471, "U.S. NRC Concept of Operations," February 1994.

4. NRC Specific Authorities

(1) Atomic Energy Act of 1954, as amended.

(2) Energy Reorganization Act of 1974.

(3) 10 CFR Parts 0 to 199.

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Federal Register

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Part III

Department of the Interior

Minerals Management Service

Russian Federation Committee on Geology and Use of Mineral Resources; Notice

4310 - MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

RUSSIAN FEDERATION
COMMITTEE ON GEOLOGY AND
USE OF MINERAL RESOURCES

Joint Request for Interest and Comments on Proposed Simultaneous Leasing in the United States Chukchi Sea and Hope Basin Planning Areas and Adjacent Russian Northern Chukchi and Southern Chukchi Planning Areas

PURPOSE

In accordance with the Memorandum of Understanding between the U.S. Department of the Interior Minerals Management Service and the Russian Federation Committee on Geology and Use of Mineral Resources, the ROSCOMNEDRA has proposed holding a simultaneous oil and gas lease sale/tender offering in Russian waters adjacent to the U.S. Outer Continental Shelf (OCS) Chukchi Sea and Hope Basin Planning Areas. The United States has responded with interest and indicated that this proposal may lead to exploration and development on both sides of the border that would have better environmental protective measures and more comprehensive information than if each Side proceeds separately. In addition, a simultaneous sale/tender would allow industry to better plan exploration and development activities for the entire Chukchi Sea area.

The simultaneous sale/tender would allow MMS and the ROSCOMNEDRA to work together to prepare the sale/tender proposals, to analyze environmental, geologic and engineering information, and to develop possible terms and conditions for tenders or leases.

The actual offering of the areas for lease/tender would be conducted separately under each Government's laws and regulations and may involve different terms and conditions for the tenders or leases.

The purpose of this Request is:

(1) to solicit comments on the U.S. leasing in portions of the Chukchi Sea and Hope Basin Planning Areas as defined in the 5-Year OCS Program for 1992 - 1997 as well as in the contiguous Northern Chukchi and Southern Chukchi Planning Areas as defined for leasing by Russia in the Russian Far East Oil and Gas Leasing Program for 1994 - 2000, and

(2) to define environmental, social, and economic information and issues relevant to analyses and decisions on whether and how to proceed.

To facilitate an examination of the feasibility of simultaneous sales, the American and Russian Sides will share the responses to this joint Request.

Oil and Gas companies are asked to provide their current interest in leasing and exploration within the U.S. Chukchi Sea and Hope Basin Planning Areas as well as in the Russian Northern Chukchi and Southern Chukchi Planning Areas depicted on the map. Other interested parties are also asked to provide comments about particular geologic, environmental, biological, economic, archaeological, or socioeconomic conditions, potential conflicts and other information that might bear upon potential leasing and development in these areas. Other information of interest includes new geological, geophysical, biological, archaeological, environmental, or socioeconomic data; new interpretations of existing data; new or developing technological advances; and new estimates of timing and costs of production.

DESCRIPTION OF THE AREAS

U.S. PLANNING AREAS

Chukchi Sea Planning Area

The area under consideration for leasing in the U.S. Chukchi Sea Planning Area is depicted by the area on the attached map labeled United States Sale 148 Area. This area was included for leasing in the Comprehensive OCS Natural Gas and Oil Resource Management Program 1992-1997. It includes about 4,381 blocks in water depths from 69 feet (21 meters) to approximately 328 feet (100 meters), at distances of 9 miles (16 kilometers) to approximately 300 miles (483 kilometers) from shore.

A Call for Information and Nominations for Chukchi Sea Sale 148 closed on March 21, 1994. Parties who responded to the Call are asked to reassess their comments in light of the potential offering of a portion of the Hope Basin Planning Area as included in the Comprehensive OCS Natural Gas and Oil Resource Management Program 1992-1997 as well as the adjacent Northern Chukchi and Southern Chukchi Planning Areas on the Russian side.

Two lease sales have been held in the U.S. Chukchi Sea Planning Area. Drilling on the U.S. Chukchi Sea OCS began in 1989, and 4 exploratory wells have been drilled. None of the wells have been determined to be commercial.

Hope Basin Planning Area

The area under consideration for leasing in the Hope Basin Planning Area is depicted by the area on the attached map labeled United States Sale 159 Area. It includes approximately 859 blocks in water depths from 69 feet (21 meters) to approximately 200 feet (66 meters), at distances of 9 miles (16 kilometers) to approximately 100 miles (161 kilometers) from shore.

No lease sales have been held and no wells or deep stratigraphic tests have been drilled in the Hope Basin Planning Area. No Call for Information and Nominations has been issued for Hope Basin Sale 159 as was done for Chukchi Sea Proposed Lease Sale 148.

RUSSIAN PLANNING AREAS

The Russian Planning Areas has been designated for leasing in the Russian Far East Oil and Gas Lease Program 1994-2000 upon request of the Chukchi Autonomous Region. The Northern Chukchi and Southern Chukchi Planning Areas are tentatively scheduled to be offered in 1996-1997.

No lease sales have been held and no wells or deep stratigraphic tests have been drilled in the Russian Planning Areas. No Call for Information and Nominations has been issued for Northern Chukchi and Southern Chukchi proposed sales/tenders.

Northern Chukchi Planning Area
The area under consideration for leasing in the Northern Chukchi Planning Area is depicted by the shaded area on the attached map labeled Northern Chukchi. It includes approximately 3,300 blocks in water depths from 10 meters (33 feet) to approximately 120 meters (395 feet), at distances of 22 kilometers (12 miles) to approximately 500 kilometers (310 miles) from shore.

Southern Chukchi Planning Area
The area under consideration for leasing in the Southern Chukchi Planning Area is depicted by the shaded area on the attached map labeled Southern Chukchi. It includes approximately 10,000 blocks in water depths from 5 meters (16 feet) to approximately 100 meters (328 feet), at distances of 22 kilometers (12 miles) to approximately 450 kilometers (280 miles) from shore.

INSTRUCTIONS ON THIS REQUEST

Information regarding leasing in the U.S. Chukchi Sea and Hope Basin Planning Areas simultaneously with leasing by the Russian Federation in the Northern Chukchi and Southern Chukchi Planning Areas may be provided by mail, telephone, or FAX to the Regional Supervisor, Leasing and Environment, Alaska OCS Region and to the North East Petroleum Operating Agency (NEPO Agency). The addresses and telephone numbers are provided below. Please consider but do not limit yourself to the following questions in responding to this Request:

(1) What level of interest do you have (HIGH, MEDIUM, or LOW) in leasing and exploring in the Chukchi Sea and Hope Basin Planning Areas at this time? Would your level of interest be the same if each of these areas were offered separately?

(2) What level of interest do you have in the leasing and exploration of the adjacent Russian Northern Chukchi and Southern Chukchi Planning Areas at this time? Would your level of interest be the same if each of these areas were offered separately?

(3) Does the possible simultaneous availability of U.S. and Russian areas affect your level of interest?

(4) Are there specific benefits (i.e., environmental, economic) to leasing U.S. areas simultaneously with the Russians? Are there drawbacks?

(5) What specific environmental, technological, social, biological, economic, or archaeological concerns should be considered in any decision regarding simultaneous sales/tenders in this area?

(6) What steps should be taken by the MMS and the ROSCOMNEDRA to avoid or mitigate any potential conflicts in each of these areas?

(7) Are you allocating any resources to oil and gas activities in the U.S. Chukchi Sea and Hope Basin portions of the area or are expenditures anticipated on activities such as geologic and geophysical data acquisition and analysis, etc.?

(8) Are you allocating any resources to oil and gas activities in the Russian Chukchi Sea portion of the area or are expenditures anticipated on activities such as geologic and geophysical data acquisition and analysis, etc.?

(9) If simultaneous offerings were to occur, what timetable would you recommend? The U.S. Chukchi Sea and Hope Basin Planning Areas are tentatively scheduled to be offered in mid-1997. The Russian Northern Chukchi and Southern Chukchi Planning Areas are tentatively scheduled to be offered in 1996-1997.

Please provide your comments no later than 90 days following publication of this document in the Federal Register and Mineral Resources of Russia. Consideration of the information will be facilitated if envelopes are marked **"Comments on US/Russia Proposed Simultaneous Leasing in the Chukchi Sea"**. Any data or information that you consider confidential/proprietary should be so marked. The telephone number and name of the person to contact in the respondent's organization for additional information should also be included. Letters should be mailed or hand delivered to the:

Regional Supervisor, Leasing and Environment, Alaska OCS Region, 949 East 36th Avenue, Room 603, Anchorage, Alaska 99508-4302, U.S.A. Telephone responses may be provided to the Regional Supervisor at (907) 271-6045, or faxed to (907) 271-6507, or by E-Mail to AWMMS@TUNDRA.ALASKA.EDU

and

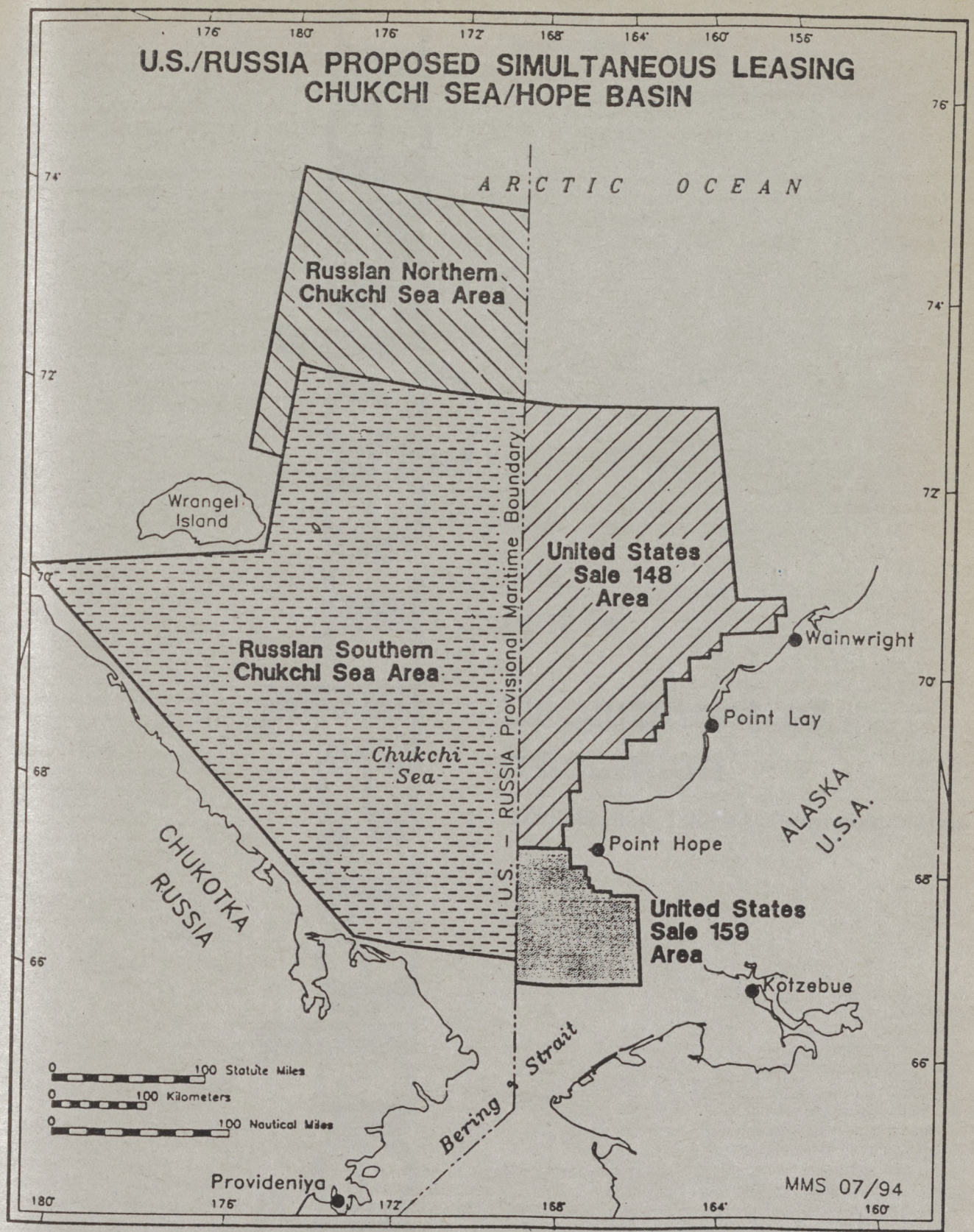
North East Petroleum Operating Agency, 16 Portovaya Str., Magadan, 685000 Russia. Telephone responses may be provided at (7-41322) 3-0064, or faxed to (7-41322) 3-0075, or by E-Mail to ROOT@NEISRI.MAGADAN.SU (Subject: Sim-Sale)

Larger scale maps of the areas are available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 603, Anchorage, Alaska 99508-4302, telephone (907) 271-6621, or faxed to (907) 271-6507.

SIGNED:

CAROLITA U. KALLAUR
Acting Deputy Director,
Minerals Management Service
U.S. Department of the Interior

VLADISLAV P. SCHERBAKOV
First Deputy Chairman,
Russian Federation Committee
on Geology and Use of Mineral Resources



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Tuesday
September 6, 1994

Part IV

Department of Education

Rehabilitation Training Programs; Notice

DEPARTMENT OF EDUCATION

RIN 1820–ZA01

Rehabilitation Training Programs

AGENCY: Department of Education.

ACTION: Notice of proposed priorities.

SUMMARY: The Secretary proposes priorities for three programs administered by the Office of Special Education and Rehabilitative Services. The Secretary may use these priorities for competitions in fiscal year (FY) 1995 and subsequent years. The Secretary takes this action to focus Federal financial assistance on areas of identified national need. These priorities are intended to prepare individuals to enter rehabilitation professions and to maintain and upgrade the basic skills and knowledge of trained rehabilitation professionals.

DATES: Comments must be received on or before October 6, 1994.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Tom Finch, U.S. Department of Education, 400 Maryland Avenue SW., Room 3038 Switzer Building, Washington, D.C. 20202–2649.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on a specific proposed priority is in the section describing the program under which the priority is being proposed.

SUPPLEMENTARY INFORMATION: This notice contains one proposed priority under the statutory authority for Rehabilitation Training, one proposed priority under the Rehabilitation Continuing Education Programs, four proposed priorities under the Rehabilitation Short-Term Training program, and two proposed priorities under the Interpreter Training for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind program. A separate competition would be established for each priority. These programs are authorized by section 302 of the Rehabilitation Act of 1973, as amended (Act). The purpose of each program is stated separately under the title of that program.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

These priorities support the National Education 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 Department supports a variety of training activities in vocational rehabilitation, and training enhances the knowledge and skills of personnel.

Note: This notice of proposed priorities does *not* solicit applications. In any year in which the Secretary chooses to use a priority, the Secretary invites applications through a notice in the **Federal Register**. When inviting applications the Secretary designates a priority as absolute or competitive preference or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority the Secretary funds only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority the Secretary gives competitive preference to applications by either (1) awarding, to an application that meets the competitive priority in a particularly effective way, additional points beyond any points the application earns under the selection criteria (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over applications of comparable merit that do not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority the Secretary is particularly interested in applications that meet the invitational priority. However, an application that meets the invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Rehabilitation Training

Purpose of Program: The Rehabilitation Training program supports projects to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs. The program supports projects to maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services.

For Further Information Contact: Robert Werner, U.S. Department of Education, 400 Maryland Avenue SW., room 3322 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–8291. Individuals who use a telecommunications device for the deaf 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.

Priority

Proposed Priority—National Clearinghouse of Rehabilitation Training Materials

Background: The Rehabilitation Services Administration (RSA) has funded a clearinghouse for rehabilitation training materials since 1961. Over the years, the clearinghouse has facilitated the development and dissemination of material for use in the training of rehabilitation personnel. Regulations for the Rehabilitation Training program in 34 CFR 385.42 state that a set of any training materials developed under the Rehabilitation Training program must be submitted to any information clearinghouse designated by the Secretary. The project funded under this priority would be designated to receive training materials developed by other projects during the project's duration. Users of the clearinghouse cover the range of rehabilitation providers, but most frequently include State vocational rehabilitation agency personnel, rehabilitation counselors, rehabilitation educators, community rehabilitation program personnel, and advocates for individuals with disabilities.

The Secretary has identified a maximum possible project period of 60 months. The Secretary believes that at least 36 months will be necessary to meet the requirements of the priority. The Secretary will be assessing, during the third year of the project period, whether there is a need to provide funding beyond 36 months.

Priority

The project must—

- Demonstrate experience and capacity to provide for a national clearinghouse of rehabilitation training materials;
- Identify and gather rehabilitation information and training materials for use in preparing pre-service and in-service education and training for rehabilitation personnel;
- Disseminate, in a cost-effective manner, rehabilitation information and

state-of-the-art training materials and methods to rehabilitation personnel to assist them in achieving improved outcomes in vocational rehabilitation, supported employment, and independent living; and

• Provide linkages and policies for the exchange of information and referral of inquiries with other existing clearinghouses and information centers supported by the U.S. Department of Education, including the Educational Resources Information Center and the National Rehabilitation Information Center.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the Education Department General Administrative Regulations selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the additional 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

Applicable Program Regulations: 34 CFR Part 385.

Program Authority: 29 U.S.C. 774.

Rehabilitation Continuing Education Programs

Purpose of Program: The Rehabilitation Continuing Education Programs are designed to support training centers that serve either a Federal region or another geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel throughout a multi-State geographical area.

For Further Information Contact: Beverly Steburg, U.S. Department of Education, 400 Maryland Avenue SW., room 3328 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9817. Individuals who use a telecommunications device for the deaf 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.

Priority

Proposed Priority—Rehabilitation Continuing Education Programs for Providers of Community Rehabilitation Services

Background: In section 2(a) (2) and (5) of the Act, Congress reported findings that, as a group, individuals with disabilities constitute one of the most disadvantaged groups in society subject to discrimination in many critical areas, including employment. Furthermore, Congress found that individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided.

Community rehabilitation programs, working closely with individuals with disabilities, their advocates, representatives, families, labor unions, and employers, are a significant resource for addressing the national problem of unemployment and underemployment of individuals with severe disabilities. Those programs serve an estimated two million individuals with disabilities annually, many through referral arrangements with vocational rehabilitation State agencies.

On-going post-employment training is needed for all who work in community rehabilitation programs to achieve improved employment outcomes for individuals with disabilities, especially volunteers, providers, and employers who fill key roles in staffing, directing, and using these programs.

In the past, RSA funded many nonacademic training programs that maintain or upgrade the skills of currently employed individuals in community rehabilitation programs under the Rehabilitation Long-Term Training program. However, final regulations for the Rehabilitation Long-Term Training program (59 FR 31060) focus on the support of academic programs that award degrees or certificates. Therefore, support for nonacademic training programs will be carried out under the other applicable training program authorities, such as this Rehabilitation Continuing Education program, the Short-Term Training program, and the Experimental and Innovative Training program.

The Secretary has identified a maximum possible project period of 60 months. The Secretary believes that at least 36 months will be necessary to meet the requirements of the priority. The Secretary will be assessing, during the third year of the project period, whether there is a need to provide funding beyond 36 months.

Priority

Projects must—

• Provide post-employment training for job coaches and other direct service community rehabilitation personnel, including employers and co-workers of people with disabilities who provide support at work for persons with severe disabilities (often called natural support), administrators, volunteers and peer counselors, and other personnel of community rehabilitation programs;

• Coordinate with activities supported by business and industry, State vocational rehabilitation agencies, school-to-work transition projects, and job development centers funded by the National Institute on Disability and Rehabilitation Research;

• Provide seminars, forums, train-the-trainer training, technical assistance, and similar methods to meet recurrent and common training needs of employed rehabilitation personnel throughout a multi-State geographical area; and

• Demonstrate potential for replication of training methods based on project outcomes through the dissemination of training materials and protocols.

Applicable Program Regulations: 34 CFR Part 389.

Program Authority: 29 U.S.C. 774.

Rehabilitation Short-Term Training

Purpose of Program: The purpose of the Rehabilitation Short-Term Training program is to provide Federal support for the development and conduct of special seminars, institutes, workshops, and technical instruction in areas of special significance to the delivery of vocational, medical, social, and psychological rehabilitation services.

For Further Information Contact: For proposed priority 1, contact Beverly Steburg, U.S. Department of Education, 400 Maryland Avenue SW., room 3328 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9817. For proposed priority 2, contact Ellen Chesley, U.S. Department of Education, 400 Maryland Avenue SW., room 3318 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9481. For proposed priority 3, contact Barbara Sweeney, U.S. Department of Education, 400 Maryland Avenue SW., room 3225 Switzer Building, Washington, DC 20202–2735. Telephone: (202) 205–9544. For proposed priority 4, contact Parma Yarkin, U.S. Department of Education, 400 Maryland Avenue SW., room 3220 Switzer Building, Washington, DC 20202–2647. Telephone: (202) 205–8733. 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.

Priorities

Proposed Priority 1—Personnel Specifically Trained to Deliver Services in Client Assistance Programs

Background: The Rehabilitation Act Amendments of 1992 (Pub. L. 102–569) made significant changes in rehabilitation service provisions under Title I of the Act. Client Assistance Programs (CAPs) provide assistance in informing and advising all clients and applicants of available benefits under the Act. Section 302 of the Act includes personnel specifically trained to deliver services in CAPs among the personnel that the Rehabilitation Training program must consider in reviewing personnel shortages and training needs. Through the 1992 Survey of Personnel Shortages and Training Needs in Vocational Rehabilitation, CAP directors have reported critical training needs for both CAP administrative and service-delivery personnel.

The Secretary has identified a maximum possible project period of 60 months. The Secretary believes that at least 36 months will be necessary to meet the requirements of the priority. The Secretary will be assessing, during the third year of the project period, whether there is a need to provide funding beyond 36 months.

Priority

The project must—

- Provide training to CAP personnel on an as-needed basis, including—(1) Management training on skills needed for strategic and operational planning and direction of CAP services; and (2) Consumer advocacy training on skills and knowledge needed by CAP staff to assist persons with disabilities to gain access to and to use the services and benefits available under the Rehabilitation Act, particularly new Title I requirements;
- Coordinate training efforts with training supported by the Center for Mental Health Services and the Administration on Developmental Disabilities for protection and advocacy on common areas, such as financial management; and
- Include both national and regional training seminars in each project year.

Proposed Priority 2—Training Rehabilitation and Mental Health Personnel to Provide Improved Rehabilitation Services to Individuals With Mental Illness

Background: High turnover rates and inadequate academic preparation of service staff are continuing problems among programs providing rehabilitation services to individuals with severe mental illness (Pratt and Gill, "Developing Interagency In-Service Training," *Psychosocial Rehabilitation Journal*, Vol. 16, No. 1, July, 1992). Ongoing research has documented the need for competency-based training to promote the recruitment, career development, and retention of personnel who provide support and rehabilitation services to persons with mental illness ("A Comprehensive Study of Human Resource Development Issues—Present and Future—for Personnel Providing Psychosocial Rehabilitation Services," Project No. H133G10072, awarded July 1, 1991, by the National Institute on Disability and Rehabilitation Research to the International Association of Psychosocial Rehabilitation Services).

Provision of rehabilitation services to persons with severe mental illness is complicated by the need for staff to interact frequently with professionals in other agencies and disciplines. Cross-training of counselors, psychiatrists, psychologists, social workers, evaluators, and other professionals is essential to effective interagency cooperation. Rehabilitation and related staff must be knowledgeable about key legislation such as the Rehabilitation Act of 1973, the Americans with Disabilities Act, and the Social Security Act. Increasingly, rehabilitation services involve persons with severe mental illness making their own choices and family members having a role in rehabilitation programs. Staff require training to be effective in consumer-directed rehabilitation.

The Secretary intends to make an award with a project period of up to 36 months.

Priority

Projects must—

- Develop training to improve the skills and knowledge of existing personnel in providing mental health and vocational rehabilitation services to persons with severe mental illness;
- Disseminate training materials on organizational coordination, resources, and organizational linkages, including findings from RSA-supported demonstration projects, that will enhance employment outcomes of individuals with mental illness served by the programs of vocational rehabilitation, supported employment, and independent living;
- Improve the skills of rehabilitation counselors, administrators, and related professionals, such as psychologists, evaluators, and psychiatrists, in working with persons with mental illness disabilities in the development and implementation of Individualized Written Rehabilitation Programs and vocational placements;
- Develop instructional techniques for working with consumers and family members on problem-solving and decisionmaking skills that will enhance employment outcomes;
- Include information in curriculum materials on provisions of Titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities and on employment-related provisions of the Americans with Disabilities Act;
- Provide training through special seminars, institutes, workshops, and other short-term courses in technical matters relating to the delivery of rehabilitation services to individuals with severe mental illness;
- Provide training for three or more States; and
- Demonstrate potential for replication based on project outcomes through the dissemination of training materials and protocols.

Proposed Priority 3—Training Members of American Indian Tribes, State Vocational Rehabilitation Agency Staff, and Rehabilitation Educators on Services for American Indians With Disabilities

Background: The Act has a number of provisions that relate to the needs of American Indians with disabilities. Under section 101(a)(20), States are required, as appropriate, to actively consult in the development of the State plan for vocational services with American Indian tribes and tribal organizations and Native Hawaiian organizations.

Section 101(a)(15) requires that States conduct continuing statewide studies of the needs of individuals with disabilities and how these needs may be most effectively met, including outreach to minorities and those who have been unserved or underserved. Vocational rehabilitation services are provided under section 130 of the Act to American Indians residing on reservations. Under the Act, the term American Indians includes Eskimos and Aleuts.

American Indians have one of the highest disability rates of all population groups. Yet, according to recent RSA statistical data on the vocational rehabilitation program, when American Indians with disabilities receive vocational rehabilitation services, they have a low rehabilitation success rate.

Some of the major problems in providing services to American Indians include—(1) Lack of outreach efforts to rural and isolated areas where many American Indians live; (2) Cultural

differences that make use of standard rehabilitation practices or methods less effective and may lead to lack of mutual understanding and trust between the provider and recipient of services; (3) Language and communication barriers; and (4) Limited employment opportunities in rural areas and on reservations.

These problems are being addressed, in part, through the American Indian vocational rehabilitation services (section 130) discretionary grants. Increased cooperative efforts and sharing of information have occurred as a result of linkages between the discretionary projects and State rehabilitation agencies. There is a great need, however, for training methods and materials to improve the provision of services to American Indians with disabilities. Rehabilitation counselors and other staff who work in State rehabilitation agencies that serve high populations of American Indians need training on how to work effectively with this population. In addition, institutions of higher education, which prepare individuals to provide vocational rehabilitation services to American Indians with disabilities, have a need for culturally appropriate materials.

The Secretary intends to make an award with a project period of up to 36 months.

Priority

The project must—

- Develop, with the active participation of American Indians, culturally sensitive rehabilitation training materials that address use of appropriate rehabilitation methods, cultural differences, and development of mutual understanding and trust between service provider and recipient;
- Use a "train-the-trainer" approach to train State rehabilitation unit in-service training educators and rehabilitation educators on all materials developed in order to improve the skills and knowledge of personnel providing vocational rehabilitation services to American Indians with disabilities;
- Conduct seminars and workshops for rehabilitation counselors and upper management rehabilitation administrators in States with high American Indian populations on how to reach out to American Indians with disabilities, including effective services planning in conjunction with section 130 American Indian vocational rehabilitation services grants;
- Provide training in State agencies with high American Indian populations; and
- Demonstrate potential for replication based on project outcomes through the dissemination of training materials and protocols.

Proposed Priority 4—Training Impartial Hearing Officers on Provisions of the Act

Background: The Rehabilitation Act Amendments of 1992 contain several new requirements for due process applicable to State rehabilitation agencies that provide services under Title I of the Act. For example, agency personnel shall presume that an applicant can benefit from vocational rehabilitation services unless they can demonstrate by clear and convincing evidence that the applicant is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome. If an individual with a disability is dissatisfied with an eligibility determination or other decisions affecting the nature, scope, onset, duration, or other conditions of services, the applicant or recipient is entitled to a fair hearing before an impartial hearing officer under section 102(d) of the Act.

An impartial hearing officer is defined in section 7(28) of the Act. Among the qualifications, the impartial hearing officer must have is knowledge of the delivery of vocational rehabilitation services, the State plan for rehabilitation services, and the Federal and State regulations governing the provision of services. Hearing officers are required in section 102(d)(2)(C) of the Act to be qualified to perform their official duties.

One problem in training hearing officers is that there is a lack of an organized and accessible information base of hearing decisions and appeals such as is commonly found in our judicial system. Those compilations relate hearing decisions to State administrative case law, encourage the use of precedent in hearing decisions, provide evaluative data to State agencies on policies and practices that require revision or remediation, and provide information for use by the Federal Government in its monitoring responsibilities. A digest of hearing decisions and appeals, if published nationally, would also be of great benefit to multiple agencies, constituent groups, and Client Assistance Programs.

The Secretary intends to make an award with a project period of up to 36 months. The Secretary expects that the materials developed under this project would be used by projects funded under the State Vocational Rehabilitation Unit In-Service Training program, the Rehabilitation Continuing Education Program, and the Client Assistance Program training projects.

Priority

The project must—

- Provide seminars and workshops for impartial hearing officers that address the many changes in due process requirements in the Act, including—(1) The rights and remedies for people with disabilities seeking services under Title I of the Act; and (2) The conduct of impartial hearings;
- Develop model materials and decision compilations (including, if appropriate, computer-accessed compilations) for in-State and national dissemination of information on hearing decisions and appeals; and
- Provide training that is national in scope and training approaches and materials that, when replicated and adapted, are suited to train State rehabilitation agency staff and Client Assistance Program staff who have significant involvement with hearings and hearing officers.

Applicable Program Regulations: 34 CFR Part 390.

Program Authority: 29 U.S.C. 774.

Training of Interpreters for Individuals Who are Deaf and Individuals Who are Deaf-Blind

Purpose of Program: The purpose of this program is to assist in providing a sufficient number of skilled interpreters throughout the country for employment in public and private agencies, schools, and other service-providing institutions to meet the communication needs of individuals who are deaf and individuals who are deaf-blind by—(1) Training manual, tactile, oral, and cued speech interpreters; (2) Ensuring the maintenance of the skills of interpreters; and (3) Providing opportunities for interpreters to raise their level of competence.

For Further Information Contact: Victor Galloway, U.S. Department of Education, 400 Maryland Avenue SW., room 3228, Switzer Building, Washington, DC 20202–2736. Telephone: (202) 205–9152. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8352.

Priorities

Proposed Priority 1—National Project With Major Emphasis on Interpreting for Individuals Who Are Deaf-Blind

Background: The Rehabilitation Act Amendments of 1992 expanded the purpose and scope of this program to include a requirement that each funded project train interpreters for "individuals who are deaf-blind" as well as interpreters for "individuals who are deaf." Each project has the

discretion to provide training for interpreters for these two disability populations to the extent, and in the specific communication modes, appropriate to the needs of these populations in the geographical area to be served by the project. To participate in major life activities, increased numbers of individuals who are deaf-blind require skilled interpreting services. Interpreting for individuals who are deaf-blind is an intensive, one-to-one exercise, requiring significant skill. Expertise in the training of interpreters for individuals who are deaf-blind needs to be developed and made available to the field. A national project is needed that will give primary focus to training interpreters for individuals who are deaf-blind to better enable regional projects supported under this program to meet the communication needs of individuals who are deaf-blind. A national project is also needed to assist in improving the training of interpreters for individuals who are deaf.

There is also need for technical assistance to regional projects on curriculum development for interpreters to serve deaf-blind individuals and on model methods of instruction for use in the training of interpreters. The Secretary has identified a maximum possible project period of 60 months. The Secretary believes that at least 36 months will be necessary to meet the requirements of the priority. The Secretary will be assessing, during the third year of the project period, whether there is a need to provide funding beyond 36 months.

Priority

This project must—

- Be of national scope;
- Concentrate on curriculum development for training interpreters for individuals who are deaf-blind in order to improve the capabilities of regional projects;
- Furnish technical assistance to the regional projects in training interpreters to meet the communication needs of individuals who are deaf;
- Establish cooperative relationships with the regional interpreter training projects to be funded by the Secretary in fiscal year 1995;
- Use collaborative training approaches, such as workshops and seminars, to address curriculum development, classroom training of interpreters, preparation of interpreter trainers (faculty development), and other activities that will increase the number of interpreters and the skills and knowledge of interpreters to meet the communication needs of individuals who are deaf and individuals who are deaf-blind.

Proposed Priority 2—National Project to Address the Interpreting Needs of Culturally Diverse Communities

Background: A national project is needed that will provide technical assistance to interpreter training projects to improve the recruitment of interpreters who are minority group members and to improve the training of interpreters to better meet the special needs of minority individuals who are deaf or deaf-blind. This project would assist all other projects funded under this program in increasing their efforts in these areas and in better meeting the interpreting needs of different cultures.

The interpreter service needs of minority group individuals who are deaf or hard of hearing is an issue that has been raised nationally. An RSA-funded evaluation study reported that approximately 90 percent of graduates from the interpreter training programs around the country are White, while 4 percent are African-American and 5 percent are Hispanic. The National Registry of Interpreters for the Deaf reported that, in a given year, of 2,057 interpreters certified by their registry, only 20 were non-White persons. A Health Interview Survey, conducted by the National Center for Health Statistics in 1990–91, reported that of the 20 million individuals who are deaf or hard of hearing, 1.2 million are Afro-American and 900,000 are Hispanic.

A national project is needed to concentrate on curriculum that will improve the skills of interpreters working with minority group members. Strategies for the recruitment of minority interpreters also need to be developed and made available to the field.

The Secretary has identified a maximum possible project period of 60 months. The Secretary believes that at least 36 months will be necessary to meet the requirements of the priority. The Secretary will be assessing, during the third year of the project period, whether there is a need to provide funding beyond 36 months.

Priority

This project must—

- Be of national scope;
- Provide technical assistance to the regional interpreter training projects supported under this program in recruiting and training interpreters to meet the communication needs of culturally diverse populations;
- Develop curriculum to improve the knowledge of interpreters with respect to social and cultural concepts of interpreting, such as body language, spatial considerations, and communication between individuals from different cultures;
- Establish cooperative relationships with the regional projects to be funded by the Secretary during fiscal year 1995 by conducting workshops and seminars to improve curriculum development, classroom training of interpreters, preparation of interpreter trainers, recruitment outreach to members of racial and ethnic minority groups, and other activities that will increase the number and skills of interpreters to help meet the communication needs of individuals from different cultures; and
- In carrying out project activities, address at a minimum the needs of the minority populations referred to in section 21 of the Rehabilitation Act, including African-Americans, Hispanics, American Indians, and Asian-Americans.

Applicable Program Regulations: 34 CFR Part 396.

Program Authority: 29 U.S.C. 771a(f).

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priorities, the Secretary has determined that the benefits of the proposed priorities justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed priorities without impeding the effective and efficient administration of the program.

Intergovernmental Review

These programs are 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 these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities. The Secretary also is interested in comments on any other requirements that should be included in the final priorities to ensure that grants awarded under these competitions will meet the need or needs identified in the proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3038 Mary E. Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance Number 84.264 Rehabilitation Continuing Education Program; 84.246 Rehabilitation Short-Term Training; 84.160 Interpreter Training for Individuals Who are Deaf and Individuals Who are Deaf-Blind; 84.275 Rehabilitation Training—General)

Dated: August 30, 1994.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–21817 Filed 9–2–94; 8:45 am]

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Tuesday
September 6, 1994

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 204, et al.

North Pacific Fisheries Research Plan; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204, 301, 671, 672, 675, 676, and 677

[Docket No. 940412–4234; I.D. 033194E]

RIN 0648–AD80

North Pacific Fisheries Research Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement the North Pacific Fisheries Research Plan (Research Plan) for the Gulf of Alaska (GOA) groundfish fishery, Bering Sea and Aleutian Islands (BSAI) management area groundfish fishery, BSAI area king and Tanner crab fisheries, and Pacific halibut fishery in convention waters off Alaska. The Research Plan will provide an industry-funded observer program and promote management, conservation, and scientific understanding of groundfish, halibut, and crab resources off Alaska.

EFFECTIVE DATE: October 6, 1994.

ADDRESSES: Individual copies of the Research Plan and the environmental assessment/regulatory impact review may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic groundfish fisheries of the BSAI and GOA in the exclusive economic zone (EEZ) are managed under the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI Area and the FMP for Groundfish of the GOA. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) (Magnuson Act) and are implemented for the U.S. fishery by regulations at 50 CFR parts 620, 672, and 675. The domestic fishery for Pacific halibut off Alaska is managed by the International Pacific Halibut Commission (IPHC), as provided by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773–773k), with implementing regulations at 50 CFR part 301. Regulations implementing individual fishing quota (IFQ) measures for the fixed gear sablefish and halibut fisheries off Alaska are at 50 CFR part 676. The king and Tanner crab fisheries of the BSAI area are managed under the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI. This FMP delegates management of the crab resources in the BSAI area to the State of Alaska (State) with Federal oversight. Regulations necessary to carry out the crab FMP appear at 50 CFR part 671.

Section 313 of the Magnuson Act, as amended by section 404 of the High Seas Driftnet Fisheries Enforcement Act, Pub. L. 102–582, authorizes the Council to prepare, in consultation with the Secretary of Commerce (Secretary), a Research Plan for all fisheries under the Council's jurisdiction, except salmon fisheries.

The Council adopted a draft Research Plan at its June 1992 meeting and later reconsidered and adopted a revised Research Plan at its December 1993 meeting. A proposed rule to implement the Research Plan was published in the **Federal Register** on May 6, 1994 (59 FR 23664). Comments on the proposed rule were invited through July 5, 1994. Nine letters providing written comment were received within the comment period and one letter supporting the Research Plan was received after the end of the comment period. Oral comment on the Research Plan also was received during the June 1994 meeting of the Council, and during three public hearings conducted by NMFS on the Research Plan in Anchorage, AK (June 7, 1994), Seattle, WA (June 15, 1994) and Portland, OR (June 16, 1994). Written and oral comments on the Research Plan are summarized in the Response to Comments section, below.

Section 313(c)(3) of the Magnuson Act requires that, within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing [the Research Plan]. Consultation with the Council was concluded July 14, 1994, in a teleconference meeting between the Council and NMFS. During this consultation, public comments received by NMFS on the Research Plan were reviewed and alternatives for NMFS' response considered.

The Secretary has approved the Research Plan under section 313(c) of the Magnuson Act. Upon reviewing the Research Plan and the comments on the proposed rule to implement it, NMFS has determined that this final rule is consistent with the Magnuson Act and the Research Plan as adopted by the Council. The Research Plan requires that observers be stationed on certain fishing vessels and U.S. fish processors participating in the BSAI management area groundfish, GOA groundfish, and BSAI area king and Tanner crab fisheries. These requirements may be extended to the halibut fishery off Alaska. Observers will be deployed for the purpose of collecting data necessary for the conservation, management, and scientific understanding of fisheries under the Council's authority. The Research Plan also will establish a system of fees to pay for the costs of implementing the Research Plan. The fees will be based on the exvessel value of retained catch in the BSAI management area and GOA groundfish fisheries, the BSAI area king and Tanner crab fisheries, and the Pacific halibut fishery off Alaska (Research Plan fisheries). Future recommendations by the Council to include other fisheries under the Research Plan will require an amendment or amendments to the Research Plan and to the regulations implementing it.

The Research Plan and its implementation are explained further in the preamble to the proposed rule. With the exception of the portion of the final rule implementing the first year of the Research Plan, the measures set out in the final rule do not differ significantly from the proposed rule.

Response to Comments

Nine letters of comments were received within the comment period. NMFS also received oral comments during three public hearings on the Research Plan. A summary of the written and oral comments and NMFS' response follows:

Comment 1. During the current Magnuson Act reauthorization, the Secretary should recommend that the name of the Research Plan be changed to the North Pacific Fisheries Observer Plan to better reflect its intent.

Response. NMFS agrees that the title "North Pacific Fisheries Research Plan" does not accurately reflect the scope of the statutory authority set out at section 313 of the Magnuson Act. Nonetheless, any change to the title would require an amendment to the Magnuson Act. NMFS' ability to include such an amendment in the current reauthorization process is limited. An amendment to the Research Plan as adopted by the Council also would be required. NMFS recommends that the Council consider changing the name of its Research Plan the next time an amendment to the Research Plan is initiated. Until the name of the Research Plan is amended, its implementing regulations will continue to refer to the "Research Plan" to reduce confusion and inconsistency between the Research

Plan as adopted by the Council and its implementing regulations.

Comment 2. The Research Plan could become a model for other user fee programs proposed nationwide. This Research Plan, therefore, must be efficient, equitable, and supported by the industry.

Response. NMFS agrees. The Research Plan must be efficiently administered and equitable to all affected sectors of the industry to ensure its success. NMFS believes that the final rule implementing the Research Plan achieves this goal.

Comment 3. The present Observer Plan is satisfactory and the implementation of the Research Plan should be delayed until a comprehensive rationalization program for the crab and groundfish fisheries is implemented. Concerns about maintaining the integrity of the observer program under the existing Observer Plan can be readily addressed by contracts and penalties without the need to impose a costly new system on the industry.

Response. For reasons outlined in the proposed rule, NMFS, the Council, and many sectors of the affected industry do not believe that the current Observer Plan is satisfactory. Once the Research Plan is fully implemented, the cost of observer coverage would be linked much more closely to both the benefits each participant receives from the observer program and the participant's ability to pay for observer coverage. In attaining a more equitable payment system, the costs for observer coverage will be increased for some operations, decreased for some, and remain unchanged for others.

Delaying Research Plan implementation until a comprehensive rationalization program for groundfish and crab fisheries is implemented would unnecessarily delay a reasonable response to the concerns existing under the current observer programs, including conflict of interest and nonpayment for observer coverage. Under the current observer program, NMFS has limited ability to monitor contracts between vessel and processor owners, observer contractors, and observers. Under the Research Plan, observers will be employees of NMFS contractors and the possibility of conflicts of interest between the observers and the vessels they are observing is greatly reduced. Furthermore, NMFS will be in a better position to take action on cases of observer nonpayment by contractors.

Comment 4. Catcher/processors will be assessed a fee of up to 2 percent of the exvessel value of their retained catch. For some processors with 100-percent observer coverage, this will result in a fee that reflects up to an eight-fold increase in costs for observer coverage. An increase of this magnitude is difficult to accept, given that observer coverage on these vessels cannot be any greater than it is now, and many more industry participants will be sharing the costs of the program.

Response. One of the objectives of the Research Plan is to distribute the costs of observer coverage more equitably. Those who have low observer coverage costs relative to the exvessel value of the fish they retain and those who currently have no observer coverage requirements will experience increased costs. Those who have high observer coverage costs relative to the exvessel value of the fish they retain will experience decreased costs. The distribution of costs under the Research Plan will become more equitable, both in terms of the benefits received from the observer program and the ability to pay for observer coverage.

Comment 5. Fishermen should not have to pay costs associated with agency support of the groundfish and crab observer programs under the Research Plan when NMFS and the Alaska Department of Fish and Game (ADF&G) have paid for these costs in the past.

Response. Agency costs to administer and operate the groundfish and crab observer programs are authorized recoverable costs under the Research Plan. Nonetheless, NMFS is pursuing continued funding of the observer programs at current levels. If NMFS is successful, the use of the North Pacific Fishery Observer Fund (Observer Fund) to support agency costs of implementing the observer program will be minimized.

Comment 6. The first-year fee collection program should be restructured to avoid the proposed "double payment" program requiring vessels using observers to pay the costs of observer coverage in addition to paying the Research Plan fee, with a later rebate for observer costs. Alternative fee collection programs include crediting billed fee assessments for observer costs, an accelerated rebate of costs for observer coverage over the 2-percent assessment rate, or a system where vessels and processors currently paying for observers would not be required to pay the Research Plan fee.

Response. NMFS agrees and has implemented a revised program for the first year of the Research Plan that allows processors to subtract from their billed fee assessments observer costs incurred by the processor during 1995. Groundfish catcher vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) and crab catcher vessels required to carry observers while participating in specified crab fisheries will be exempt from fee assessments during 1995 because these two sectors of the Research Plan fisheries currently pay costs for observer coverage that are equal to or greater than amounts they would contribute under the Research Plan fee assessment program.

Comment 7. The proposed rebate program during the first year of the Research Plan constitutes an unfair imposition on the segment of the industry that supposedly has already been unfairly burdened, particularly vessels that currently are required to obtain 100-percent observer coverage. A different approach is recommended under which industry participants who are not now paying any observer costs would pay the 2-percent fee; those who are paying for 30-percent observer coverage would continue to pay for that coverage, without rebate, and would pay 70 percent of the 2-percent fee; and those who are paying for 100-percent observer coverage would continue to pay for that coverage, without rebate, and would not pay any portion of the 2-percent fee. In the second year, all participants would be assessed the same fee percentage under the percentage fee system.

Response. NMFS has revised the first year of the Research Plan to eliminate the proposed rebate program. The final rule exempts from the first-year fee assessment program those operations that currently pay costs for observer coverage that equal or exceed costs that they would pay under the Research Plan once it is fully implemented (see the response to Comment 6). Furthermore, participants in the Research Plan fisheries who currently are not required to obtain observer coverage will pay their full portion of the 1995 fee percentage. Because the fee percentage authorized under the Research Plan is assessed against the exvessel value of retained catch, fee assessments can exceed current costs for observer coverage by vessels and processors required to have 100-percent observer coverage. These operations will be required to pay the difference between the fee assessment and observer costs. Once the Research Plan is fully implemented, all participants in the Research Plan fisheries will contribute equitably to the payment of Research Plan fee assessments based on the annual fee percentage and the exvessel value of retained catch.

Comment 8. If the proposed rule is revised to eliminate the first-year rebate program, concern exists that insufficient start-up funds would be collected to

allow full implementation of the Research Plan by January 1996. This is of particular concern if fees are assessed only against fish harvested and processed by vessels or processors not required to obtain observer coverage.

Response. See the response to Comment 6. The revised program for the first year of the Research Plan will collect fees from all participants in the Research Plan fisheries except from those persons who pay costs for required observer coverage that exceed their fee liability under the Research Plan. Based on the analysis presented in the final environmental assessment/regulatory impact review (EA/RIR) and assuming a 2-percent fee percentage for 1995, the revised program should provide sufficient start-up funds for full implementation of the Research Plan by January 1996.

Comment 9. If a rebate program is implemented for the first year of the Research Plan, rebates should be based on actual costs for observer coverage and not on a "standardized cost of an observer day."

Response. NMFS agrees. Although the final rule implementing the Research Plan does not include a rebate program, a processor can subtract from its portion of a billed fee assessment the actual costs incurred by the processor for observer coverage during 1995.

Comment 10. The Research Plan should include a requirement for an annual audit of the program by an independent (non-government) auditor.

Response. At this time NMFS believes that a regulatory requirement for an annual audit of the Research Plan by an independent (non-government) auditor is unnecessary. Under the Department of Commerce (DOC) Financial Management System (FIMA), annual financial reports that summarize all financial activity within the Observer Fund will be prepared for review by the Council's Observer Oversight Committee (OOC) and the Council.

Special audits by a non-government or independent governmental agency, such as the General Accounting Office (GAO) or the DOC Inspector General, can be solicited by the Council, provided the intended extent of the audit is clearly defined and the audit utilizes generally accepted governmental auditing standards issued by the Comptroller General of the United States. NMFS believes costs associated with a special audit would be recoverable under the Research Plan.

Comment 11. The proposed requirements for 60-day and 10-day advance notice to observer contractors for observer coverage do not pose a problem for those fishing seasons that are scheduled regularly and well in advance. These requirements will be impossible to meet when inseason changes in season opening dates occur, or when reserves are released. These latter types of announcements are frequently made with notice of a week or less, obviously precluding any ability to arrange for an observer 60, or even 10 days, in advance. The proposed rule should be revised to provide an exception for situations in which advance notice cannot be given due to circumstances outside the control of the vessel owner.

Response. The final rule implementing the Research Plan does not change the proposed criteria for notifying an observer contractor of a vessel's or processor's observer needs. The 60-day and 10-day notification periods are necessary to guarantee the availability of observers to meet observer coverage requirements, particularly if additional observer training classes must be arranged to meet the demand for observer coverage. NMFS agrees that circumstances could occur that would preclude a person from providing a 60-day or 10-day notice to an observer contractor for observer coverage. If this should occur, NMFS cannot guarantee the availability of observers to satisfy observer coverage requirements. NMFS is aware of the logistic and planning problems that can arise when fisheries are opened on short notice and will attempt to provide sufficient advance notice of inseason fishery openings to allow vessels and processors to comply with observer coverage requirements.

Comment 12. Designated observer embarkment/disembarkment locations were proposed for Alaska in the preamble to the proposed rule. Vessels based in Washington State often proceed directly to the fishing grounds and the proposed rule should be revised to add one or two locations for embarkment/disembarkment of observers in Washington.

Response. NMFS considered designating embarkment/disembarkment locations outside Alaska, but due in part to the prohibitive transportation costs, declined to include non-Alaska sites in the list of proposed ports. ADF&G crab managers recommended that crab observer embarkment/disembarkment sites coincide with the observer briefing/debriefing sites in Alaska. The selection of embarkment/disembarkment ports occurs annually as part of the Research Plan specification process with opportunity for Council review and public comment. Embarkment/disembarkment sites outside of Alaska may be considered, along with the attendant costs, during this annual process.

Comment 13. The proposed rule specified that vessels requiring observer coverage must have passed a Coast Guard safety inspection within the last 2 years. If this requirement is a reference to the fishing-industry-specific inspection requirements contained in 46 U.S.C. Chapter 45, the final rule should be clarified to say so.

Response. The U.S. Coast Guard implemented regulations codified at Titles 33 and 46 CFR, which implemented statutory provisions at 46 U.S.C. Chapter 45. The final rule has been clarified to require that vessels with observer coverage display certification of compliance with certain U.S. Coast Guard regulations codified at Titles 33 and 46 CFR and at 46 U.S.C. 3311. This requirement is intended to provide observers with some assurance that vessels they are stationed on meet specified U.S. Coast Guard safety standards.

Comment 14. Vessels cannot always provide officer's accommodations for observers as would be required by § 677.10(c)(1) of the proposed rule.

Response. Section 677.10(c)(1) has been changed in the final rule to require accommodations and food for observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel. The intent of this regulation is to require a vessel operator to treat the observer with respect. The observer need not be given the captain's quarters, but the observer should not be housed in a room with accommodations less than those provided for management personnel.

Comment 15. If a funding shortfall exists, would NMFS allow overharvesting of a total allowable catch (TAC) to generate additional funding?

Response. NMFS will not authorize an overharvest of a species' TAC to generate additional revenue under the Research Plan.

Comment 16. Catcher vessels should not be liable for delivering fish to an unpermitted processor. The violation should remain with the processor, not the vessel. Some other means besides NMFS' electronic bulletin board should be used to notify the industry of the processors with valid permits.

Response. NMFS believes it is the responsibility of catcher vessel operators to be aware of the permit status of each processor they choose to do business with. A processor will not be issued semiannual processor permits unless its billed fee assessments are paid. The prohibition on delivering fish

to a processor not possessing a current semiannual permit provides additional incentive to the processor to submit timely payments on its billed fee assessment. This is a crucial consideration in achieving the objectives of the Research Plan. NMFS will maintain an updated list of permitted processors on its electronic bulletin board. A vessel operator also can request this information directly from a processor.

Comment 17. Currently, 30-percent observer coverage requirements are strictly adhered to because vessel operators do not want to pay for additional observer coverage. Under the Research Plan, this strong incentive to effectively limit coverage to required levels will be eroded.

Response. NMFS realizes that full implementation of the Research Plan will erode some of the incentive to a vessel operator to disembark an observer as soon as coverage requirements are met. Observer contractors will work with vessel owners to monitor the observer coverage and to see that observers are transferred to other vessels where coverage is needed. NMFS may order a vessel to port to disembark an observer, should that prove necessary.

Comment 18. Concern exists that the Research Plan will ultimately result in reduced observer coverage, because the statutory limit on the annual fee percentage (2 percent) will not allow for the collection of funds sufficient to provide for increased costs of observer coverage, nor for increased administrative costs incurred by NMFS and ADF&G.

Response. NMFS is committed to providing an efficient and effective observer program within the statutory constraints. NMFS will use the best available information to establish the annual fee percentage. If increased Research Plan costs or reduced fee collections due to a reduced exvessel value of Research Plan fisheries create unanticipated shortfalls within any calendar year, a regulatory mechanism exists to decrease observer requirements over the season. Alternatives to reduced observer coverage in both the short and long term also exist in the form of amending the Magnuson Act to allow for a fee percentage greater than 2 percent, or obtaining other sources of funding.

During 1995, the first year of the Research Plan, an annual fee percentage of 2 percent may be necessary to accumulate sufficient start-up funds to support the contracts for observer coverage during the first half of 1996. In succeeding years, the percentage should be lower. In all cases the 2 percent limit should serve as an incentive to keep down the costs, make the observer programs more efficient, and seriously evaluate the benefits of any proposed increase in observer coverage requirements.

Comment 19. The Council is considering alternative incentive programs to address bycatch waste that would require additional observer coverage for participating vessels. The final rule implementing the Research Plan should not preclude voluntary increases in observer coverage by vessel owners as a prerequisite for participation in these incentive programs.

Response. Observer coverage regulated under the Research Plan is set out under § 677.10 of the final rule. The Research Plan does not preclude observer coverage beyond levels required under the Research Plan by anyone participating in a voluntary incentive program. However, persons who voluntarily obtain observer coverage beyond that required under the Research Plan would incur the costs of the additional coverage. Furthermore, voluntary or mandatory requirements for observer coverage beyond those authorized under the Research Plan would require rulemaking.

Comment 20. Concern exists about the possibility of new fees being imposed on the fishing industry during the current reauthorization of the Magnuson Act. Because of this concern, a sunset date should be added to the Research Plan that would take effect if and when amendments to the Magnuson Act duplicate fees being charged under the Research Plan. Any new fee imposed under the Magnuson Act should not be in addition to the fees required under the Research Plan.

Response. Changes to regulations normally must be accomplished through rulemaking, rather than being automatically triggered by events, such as passage of legislation. Under the Administrative Procedure Act notice and comment procedures, the public must be given notice of the proposed change and have an opportunity to comment on the proposed change. Should the Council decide that, in the future, the Research Plan should be withdrawn or modified to take into account amendments to the Magnuson Act, or for any other reason, it can recommend that the Secretary do so under normal rulemaking procedures.

Comment 21. Industry members should be allowed to participate in the NMFS/ADF&G work group to oversee agency efforts to streamline the groundfish and crab observer programs and to maximize efficiency of administration and implementation of these programs.

Response. NMFS disagrees. Industry members have many opportunities to comment on or participate in agency efforts to streamline the groundfish and crab observer programs. These opportunities include the Advisory Panel (AP), the OOC, and public testimony or written comment on the annual Research Plan specification process or other pertinent actions before the Council. The NMFS/ADF&G work group meetings will provide a setting for staff members to address administrative, implementation, and efficiency issues of the observer programs and to respond to issues and concerns raised by the public through the AP, OOC, or testimony before the Council.

Comment 22. Given limited resources and a need to expand overall observer coverage, it is essential that the Research Plan be implemented in such a way as to maximize efficiency and minimize administrative overhead and costs. The first major step in that direction would be to consolidate the crab and groundfish observer programs. In addition to reduced costs, a consolidated program would provide an opportunity to standardize training and qualification requirements for observers, develop more rational deployment schemes, coordinate research and data collection objectives, and move toward the development of a professional, well trained, well qualified observer corps. With this goal in mind, NMFS and ADF&G should prepare budgets and report to the OOC and Council on the feasibility of combining the groundfish and crab observer programs.

Response. NMFS and ADF&G are actively pursuing ways in which the NMFS groundfish and ADF&G crab observer programs can combine tasks and more efficiently utilize resources. Some areas being explored for possible future collaboration are training, briefing, debriefing, and field support. Also, under the Research Plan, an interagency (NMFS and ADF&G) working group will be established to address issues of consolidation and cost efficiency.

Comment 23. Fiscal year (FY) 96 budgets prepared for the crab and groundfish observer programs do not include the costs for shellfish observer training. NMFS has factored the costs of shellfish training into a daily observer cost estimate reported by observer contractors, rather than use training costs incurred by the University of Alaska, which has been bearing these costs. True costs of the crab observer training should be included in the Research Plan budget so that everyone

has an accurate picture of the entire program. Crab fishermen and shellfish observer contractors may claim they are being discriminated against if they will have to pay an additional cost of shellfish training beyond that paid by user fees. Shellfish observer training should not be treated differently from groundfish observer training under the Research Plan.

Response. Specific comments on agency budgets and policy necessary to administer the groundfish and crab observer programs are outside the scope of the final rule to implement the Research Plan. Comments of this sort would best be addressed under the annual specification process set out at § 677.11 of the final rule.

Nonetheless, NMFS agrees the FY96 budgets for the crab and groundfish observer programs do not include the costs for shellfish observer training because neither NMFS nor ADF&G currently train crab observers. NMFS believes it is appropriate to require potential observer contractors to incorporate subcontracted costs for training crab observers in their response to the request for solicitation. NMFS believes that this approach will incorporate all the costs of training crab observers within the Research Plan contracts, thereby avoiding the possibility of crab vessels or observer contractors incurring additional costs.

Under the Research Plan, the NMFS/ADF&G working group will examine differences and similarities between the groundfish and crab observer programs and will consider the potential benefits of training crab observers within the ADF&G observer program or within the NMFS observer program.

Comment 24. Agency budgets should include costs for crab observer training and explicitly identify groundfish and crab observer program costs. NMFS and ADF&G must work towards streamlining programs and reducing costs (e.g., cross-training of observers, sharing field facilities, coordinating briefing and debriefing functions.)

Response. See the responses to Comments 22 and 23.

Comment 25. NMFS staff have expressed the intent to solicit bids for crab observer training, but not the groundfish observer training. Both crab and groundfish training programs should be subject to the bidding process. Not only will this produce the most cost-effective approach to training, but it will assure that the groundfish and crab industry receive similar treatment under the Research Plan.

Response. As mentioned in the responses to Comments 22 and 23, the NMFS/ADF&G working group will be considering various options for both groundfish and crab training and these options will be discussed before the OOC and the Council as part of the annual specification process.

Comment 26. In-season price adjustments, in-season payment adjustments, or price forecasts should be used, when practicable, to decrease differences between the standard exvessel prices and the actual exvessel price that can result from seasonal or inter-annual price fluctuations.

Response. Early in the development of the fee collection program for the Research Plan, the Council recommended the use of actual exvessel prices and values for processors that purchase fish from fishermen and the use of standard exvessel prices for integrated harvesting and processing operations that do not purchase fish. This recommendation adjusted prices to reflect the actual prices for the former class of processors and post-season price settlements. By 1992, the Council had identified problems with this recommendation and voted to recommend the use of standard exvessel prices for all processors. The problems included the following: (1) The incentive of fishermen and processors to understate actual exvessel prices, (2) the difficulty of verifying that the reported prices were correct, (3) the difficulties of applying post-season adjustments in exvessel prices to the standard exvessel prices used for processors that catch their own fish, and (4) the lack of timely price information from fish tickets. The Council recognized that actual inseason exvessel price data may provide a more equitable basis for fee assessments among processors who purchase fish. However, the Council determined that the potential for more equitable fee assessments was not sufficient to overcome the problems associated with using actual prices.

The Council has recommended that NMFS establish standard prices for 6-month periods. This recommendation should increase the ability of NMFS and the Council to set standard prices that will closely approximate actual prices. This process will be facilitated if the exvessel price information from fish tickets becomes available in a more timely manner.

Fee revenue and actual fee liability would be more uncertain if they were based on inseason price or payment adjustments. If prices increase, processors could have difficulty collecting the additional fees from fishermen, and if prices decrease, processors may not make the appropriate refunds to fishermen. Over time, the unexpected increases and decreases in exvessel prices are expected to cancel out.

Under the final rule, the standard exvessel prices will be based on: (1) Exvessel price information during the most recent 12-month period for which data are available for different seasons, gear types, management areas, and processing sectors; (2) factors that are expected to change exvessel prices in the upcoming calendar year; and (3) other information that indicates what exvessel prices would be expected to be in the upcoming calendar year. Therefore, to the extent practicable, price forecasts will be used.

Comment 27. When differences in prices by gear, area, mode of operation, and season are real and significant, separate standard prices should be established for each.

Response. NMFS agrees and intends to propose exvessel prices that reasonably accommodate price differences by season, gear, area, and processing sector (inshore and offshore components) (see the response to Comment 26). However, even when real and substantial differences exist in exvessel prices by gear, area, mode of operation, and season, there are justifications for not establishing a separate standard price for each. To the extent that exvessel prices differ due to differences in the services a fishing vessel provides in addition to harvesting raw fish, it may be inappropriate to establish separate standard prices.

Comment 28. It is unfair not to account for differences in prices due to stage of product processing and mode of operation.

Response. As noted in the response to Comment 27, NMFS believes it may be inappropriate to charge different fees per pound of retained catch for different fishermen due to differences in the distribution of services between fishermen and processors or to assess a higher fee per pound for a group of fishermen that perform services that are typically performed by processors.

Comment 29. Prices should be imputed by area when the size of fish differ by area and product prices differ by the size of fish.

Response. The cost of accommodating this suggestion could be justified if large differences exist in product prices by area of catch. The annual processor survey conducted by the State of Alaska does not collect price data for narrowly defined areas. As a result, NMFS would have to use other sources of product price data that would tend to increase information and analytical costs and, perhaps, decrease the quality of the price estimates. In the future, NMFS may consider rulemaking to collect

additional price information if existing sources of data are deemed insufficient.

Comment 30. The method used by NMFS to impute exvessel prices is acceptable, but the product prices and product price to exvessel price conversion factor should be reviewed, a conversion factor of 20-percent should be used, and an industry committee of those familiar with these species should be part of the review process.

Response. The Research Plan specification process set out in the final rule at § 677.11 includes review of the imputed standard exvessel prices by the OOC, AP, Scientific and Statistical Committee (SSC), the public, and the Council before the standard exvessel prices are proposed. The proposed standard exvessel prices will be published in the Federal Register annually, and the data on which they are based will be included in a report available from the Council. Public comments will be requested on both the proposed standard exvessel prices and the data on which they are based. The final standard exvessel prices will be established after further review by the OOC, AP, SSC, and the Council. Therefore, the process for establishing standard exvessel prices allows for as much input and review as the industry is willing to provide. The industry is free to establish a committee to assist in establishing standard exvessel prices.

Comment 31. Actual prices paid to fishermen are recorded on fish tickets and these prices should be used to calculate fee assessments, rather than the proposed method of using standard exvessel prices. If standard exvessel prices are used, NMFS should implement a separate rebate program to reimburse fishermen who were ultimately charged more than 2 percent of the exvessel value in those cases where the standard exvessel price is less than the actual price they received.

Response. See the response to Comments 26 and 27.

Comment 32. Fee assessments should not be assessed on deadloss crab.

Response. Fee assessments will be based on the amount of crab retained by a processor. Crab that is harvested alive but dies enroute to the processor is considered deadloss and is not purchased by the processor or buyer. This crab, therefore, will not be considered retained catch for the purpose of calculating fee assessments.

Comment 33. Under the proposed rule, retained catch for processor vessels would be determined by using standard product recovery rates (PRRs) to calculate round-weight equivalents. Retained catch can be calculated most accurately by actual weights, rather than by using a derivative system. Recognizing that not all processor vessels are equipped with scales, a system should be implemented under which a processor could elect to have retained catch calculated by any recognized acceptable means, such as actual weight, volumetric measure, or standard PRRs.

Response. NMFS has prepared a draft analysis for Council consideration that evaluates different alternatives for obtaining accurate catch weight measurements. The Council is scheduled to take final action on a preferred alternative before the end of 1994. Until regulations are implemented that serve as consistent guidelines for obtaining accurate measurements of catch weight, NMFS will continue to rely on PRRs to calculate round-weight equivalents.

Comment 34. NMFS has reported that a 10–20 percent discrepancy exists between observed retained catch estimates and retained catch amounts reported by processor vessels in their weekly production reports. Currently, an easy and precise method to verify the accuracy of reported catch amounts is not available. Given that the projection of groundfish exvessel value was based on projected catch using a blend of observer and vessel data, concern exists that this projection overestimates the fees that will be collected during the start-up year by 10 percent or more. If this is the case, full implementation of the Research Plan may be unnecessarily delayed. A better alternative is to calculate the fee based on retained weight, but incorporate the "blend" method to decrease the problem of under-reporting.

Response. Retained catch amounts used to project exvessel value of groundfish for purposes of the Research Plan were based on data submitted by the industry on weekly production reports and ADF&G fish tickets. These data, not blend data, were used to project exvessel value of retained catch and provide the best information available on which to base projected revenues under the Research Plan.

Comment 35. The use of PRRs to calculate round weight of retained catch is problematic for several reasons. First, a sizeable disparity exists within the industry regarding the PRRs of various products. Second, the current rates being used by NMFS are not necessarily based on scientific or statistically defensible data. If PRRs must be used, they must be based on the best available scientific evidence.

Response. NMFS has determined that the standard PRRs that it will use to calculate round-weight equivalents of retained catch by at-sea processors represent the best available scientific information about product recoveries being achieved by the processing industry. NMFS has invited public comment on the standard PRRs it will use and will soon publish them in a final rule. NMFS will continue to review information about product recoveries and will propose regulations to revise any particular standard PRR, if necessary. See also the Response to comment 33.

Comment 36. Under the proposed Research Plan, vessels are charged a fee based on the round-weight of retained fish. As a result, a large incentive will exist to not make products such as fish meal or process small fish or male flatfish, which may be perfectly fit for human consumption but have a lower market value. A better method would be for each vessel to pay for what it catches, whether or not the fish are retained for processing. If vessels were assessed a fee based on the weight of fish caught, there would be an economic incentive to reduce bycatch and other fish waste, as well as an incentive to collect and report the best possible data.

Response. NMFS has revised the final rule to exempt from bimonthly fee assessments the exvessel value of whole fish that are processed into meal. This action is intended to address concerns that the imposition of Research Plan fees on the exvessel value of retained catch may create an incentive for processors to discard low value fish that otherwise may have been retained.

Section 313 of the Magnuson Act authorizes the assessment of fees on both retained and discarded catch. Given this authority and the Council's desire to encourage retention of catch under the Research Plan, the Council has asked the OOC to explore options for assessing fees on discarded catch. Any future recommendation by the Council to implement a fee assessment program for discarded catch will require rulemaking and likely would not be implemented before 1996.

Comment 37. Insurance coverage requirements should be established for observers.

Response. At its June 1994 meeting, the Council indicated that it will appoint a technical committee to address the issue of standard insurance coverage for observers.

Comment 38. The concept of a risk-sharing pool for observer insurance is not acceptable because the pool concept undermines the competitive process for insurance.

Response. Section 313(e) of the Magnuson Act requires the Secretary to review the feasibility of establishing a

risk-sharing pool to provide insurance coverage for vessels and owners against liability from civil suits by observers. This feasibility study will include a cost analysis and a review of potential impact on vessel owners, observer contractors, and observers. The Secretary will not establish a risk-sharing pool if his review shows that comprehensive commercial insurance currently is available for all fishing vessels and processors required to have observers, and such insurance will provide a greater measure of coverage at a lower cost to each participant.

As noted in the response to Comment 37, the Council took action at its June 1994 meeting to establish a technical committee to address this issue.

Comment 39. Identification should be required for observers at shoreside plants (e.g., vest, tag, ID card), to facilitate their access to confidential information (fish tickets, data on plant production, etc.).

Response. NMFS agrees and presently is investigating the feasibility of supplying observers with an ID card that would either replace, or be in addition to, the present letter of certification.

Comment 40. NMFS should be more effective in dealing with observer harassment issues as reported by observer contractors.

Response. Contractors currently have the ability to deny observer coverage to vessels that have had continuing problems with harassment of observers. Under the fully implemented Research Plan, vessel or processor owners no longer will be the clients of the contractors and NMFS will have greater ability to ensure that harassment situations are handled in an appropriate manner. NMFS Enforcement will continue to investigate reported instances of observer harassment and will take action where warranted.

Comment 41. Observer duties should remain unchanged under the Research Plan and should not become more enforcement oriented.

Response. Existing observer duties will be unchanged under the Research Plan.

Comment 42. NMFS should assess an observer's performance through survey information collected from the industry.

Response. At present, members of the fishing industry can and do comment on an observer's performance by calling or writing to the NMFS Observer Program office. NMFS recognizes the need for a more formalized process for providing feedback, and is in the process of designing a questionnaire. Such questionnaires would need to be approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, even though responses would be voluntary.

Comment 43. The Research Plan must be implemented to provide for greater NMFS oversight over the relationships between observers, observer contractors, and fishing interests. Currently, these relationships are compromised and NMFS and the Council have failed to oversee properly the integrity of these relationships. Instead, observer contractors continually exhibit interest in profits before either data quality or observer security. This situation reduces the collection of scientific data by observers to a vendor activity, jeopardizes the safety and well-being of observers, and undermines the credibility of the scientific data collected by observers.

Response. The expected change in the relationships between observers, observer contractors, and fishing interests with the full implementation of the Research Plan is one of the most important reasons for implementing it. Under the Research Plan, money for observer coverage will be distributed through NMFS, and NMFS will exercise more oversight through contractual relationships with the observer contractors.

Comment 44. NMFS and the Council should analyze the usefulness and economic efficiency of observer contractors. These individuals serve as a third-party conduit of financial payment for observer coverage and the financial resources distributed to them could be more constructively channeled.

Response. Under the Research Plan, NMFS could fund Federal employees to serve as observers. NMFS is presently evaluating the feasibility of having Federal observers serve at least some of the observer needs. However, many obstacles exist to implement such a proposition, notably the present effort to reduce the Federal work force.

Comment 45. Nonpayment of contractors and observers has been a problem since 1991. NMFS' inaction in not decertifying contractors who do not pay their observers allows these contractors to essentially loan observer coverage to the fishing industry. This situation seriously undermines the credibility of the observer program and requires greater oversight by NMFS.

Response. Under current regulations, vessel and processor owners contract with observer contractors to provide observer coverage. NMFS is not a party to those contracts, so has limited ability to enforce contracts between vessel and processor owners, observer contractors, and observers. Under full implementation of the Research Plan, contractors will be paid from the Observer Fund and NMFS will be in a much better position to investigate and act on cases of observer nonpayment by contractors.

Changes in the Final Rule From the Proposed Rule

This final rule has been revised from the proposed rule to address public comment on the first year of the Research Plan. Neither the Council nor the general public supported the proposed first-year program that would have provided rebates to vessel and processor owners for observer costs, because (1) persons would have experienced delays from the time they paid for observer coverage until they were reimbursed for these costs, and (2) rebates would have been based on standardized costs per observer day. This final rule implements an alternative program for the first year of the Research Plan that addresses these concerns based on the following assumptions and criteria:

a. The first year of the Research Plan will generate sufficient start-up funds during 1995 to allow full implementation of the Research Plan by January, 1996;

b. NMFS will seek funding for the financial support of the observer programs, at least through fiscal year 1996;

c. The first year of the Research Plan will not require "double payment" by any participant in the Research Plan fisheries for any period of time during 1995; and

d. The first year of the Research Plan will credit actual costs paid by a participant in the Research Plan fisheries for observer coverage during 1995 up to the limit of the participant's fee liability.

The revised program for the first year of the Research Plan is set out in this final rule at § 677.6 and is further discussed in the final EA/RIR prepared for this action (see **ADDRESSES**). In summary, this final rule exempts owners of groundfish catcher vessels equal to or greater than 60 ft (18.3 m) LOA from payment of fee assessments during 1995 because, as a group, this vessel size class currently pays observer costs that exceed 1 percent of the exvessel value of their catch. Crab catcher vessels participating in fisheries for *Chionoecetes tanneri* Tanner crab, *C. angulatus* Tanner crab, or *Lithodes cousei* king crab are required to carry observers under Alaska State regulations at 5 AAC 34.082 and 5 AAC 35.082. Vessel costs for this observer coverage equal or exceed the vessels' expected fee liability for the retained catch of these

species. As a result, these catcher vessels also are exempt from contributing to the portion of the 1995 fee assessment based on the exvessel value of retained catch of these specific Tanner and king crab species.

Under the final rule, groundfish mothership processor vessels and shoreside processors will be billed for their portion of the 1995 fee assessment (i.e., a fee assessment based on one-half of the annual fee percentage multiplied by the exvessel value of retained catch) plus one-half of the fee assessment calculated for the exvessel value of retained catch delivered by vessels less than 60 ft (18.3 m) LOA. Each of these processors may subtract its observer coverage costs from the processor's portion of the bimonthly bill. With the exception of processors retaining *C. tanneri, C. angulatus,* or *L. cousei,* who will be billed one half the fee percentage for these species, groundfish catcher/processors, crab catch/processors, crab shoreside processors, crab floating processors, and halibut processors will be billed the full fee percentage. Groundfish catcher/processors, crab catcher/processors, and crab floating processors may subtract their groundfish and crab observer coverage costs, respectively, from their bimonthly fee assessment for retained catch of groundfish and crab. The annual deduction for observer costs is limited to the actual cost paid for observer coverage during 1995 or the 1995 fee liability, whichever is less.

Several changes from the proposed rule have resulted from the revised program for the first year of the Research Plan. In addition, other changes have been made to respond to more specific public comments on the proposed rule and to improve the clarity and consistency of regulations. Significant changes are as follows.

1. The OMB control numbers for approved information collection requirements have been added to 50 CFR part 204 to comply with requirements of the Paperwork Reduction Act.

2. Figure 1 of 50 CFR part 677, the Federal Processing Permit Application (Form FPP–1), has been revised to combine existing permitting requirements under § 672.4 and § 675.4 to reduce the reporting burden on processors and to facilitate administrative efficiency in issuing permits. Form FPP–1 also has been changed to more clearly identify persons who qualify as "processors" for purposes of the Research Plan.

3. Figure 2 of 50 CFR part 677, the Observer Coverage Payment Receipt Form (Form FPP–2), has been revised to collect information on payments to an observer contractor by a processor for observer coverage during 1995. NMFS will use this information to audit the observer coverage costs subtracted by a processor from its billed fee assessments.

4. In § 677.2, the definitions of the terms "Bimonthly", "Catcher vessel", "Fishing trip", "Mothership processor vessel", "Processor", "Retained catch", and "Shoreside processor or shoreside processing facility" have been changed; the definitions of the terms "At-sea processor", "Standard observer day", and "Standardized cost of an observer day" have been removed; and a definition of the term "Fishermen" has been added.

The definition of "Bimonthly" has been revised to coincide with calendar months, rather than weekly reporting periods. This change is necessary to allow greater consistency between ADF&G and NMFS data collected from the industry that is used to calculate processor fee assessments.

The definition of "Catcher vessel" has been revised to clarify that a catcher vessel is used for catching fish, but does not process fish.

The definition of "Fishing trip" has been changed to more clearly implement NMFS' intent for observer coverage requirements set out at § 677.10(a)(1) for catcher vessels delivering groundfish to shoreside processing facilities. A catcher vessel required to carry a NMFS-certified observer during at least 30 percent of its fishing days in a calendar quarter under § 677.10(a)(1) also must carry an observer during at least one fishing trip during the calendar quarter for each of six different groundfish fishery categories defined at § 677.10(a)(1)(ii) in which it participates. In the proposed rule, these fishery definitions were based on a vessel's retained catch composition of groundfish during a weekly reporting period. However, retained catch information for catcher vessels delivering groundfish to shoreside processors is recorded on ADF&G fish tickets that summarize catch retained during a fishing trip, not a weekly reporting period. To resolve this discrepancy, the definition of "Fishing trip" at § 677.2 and of fishery categories at § 677.10(a)(1)(ii) have been clarified to allow the use of ADF&G fish tickets completed at the end of a fishing trip to assign catcher vessels to fisheries.

The definition of "Mothership processor vessel" has been revised to clarify that a mothership processor is not used for, or equipped to be used for, catching fish.

The definition of "Processor" has been revised to include those fishermen who deliver fish directly to restaurants. This change is necessary because information on retained catch is not obtained from restaurants under the recordkeeping and reporting requirements set out under § 672.5 and § 675.5.

The definition of "Retained catch" has been revised to more clearly apply to all processors defined at § 677.2.

The definition of "Shoreside processor or shoreside processing facility" has been changed to more clearly separate this type of processing operation from other types of processors (e.g., catcher/processors, mothership processor vessels, or fishermen who sell fish to restaurants or to another person for use as bait or personal consumption).

The definition of "Fishermen" has been added to clarify reference to this term under the definition of "Processor."

In § 677.2, the term "At-sea processor" has been removed because this term is not referred to in regulations. The terms "Standardized cost of an observer day" and "Standard observer day" have been removed because these terms no longer are applicable.

5. In § 677.6, the following changes have been made.

a. Paragraph (b) has been revised and a new paragraph (d) is added to implement a credit program rather than a rebate program during the first year of the Research Plan. In paragraphs (b)(1) and (b)(2), regulatory language has been added to exempt the exvessel value of whole fish that is processed into meal from bimonthly fee assessments. This change addresses concerns that the imposition of Research Plan fees on the exvessel value of retained catch may create a greater incentive for processors to discard fish that otherwise may have been processed.

b. Old paragraph (d) has been redesignated paragraph (e) and revised to authorize NMFS to charge late fees for the balance of a bimonthly fee assessment in the event the Director, Alaska Region, NMFS, determines that a billing error has not occurred in response to a billing dispute initiated by a processor. The authority to charge a late fee is necessary to discourage a person from using the process set out for disputing a bimonthly fee assessment bill only as a means to delay payment of the bill.

c. Old paragraph (e) has been redesignated paragraph (f) and revised to encourage the timely payment of a billed fee assessment by providing

NMFS the authority to assess a penalty fee in the event payment is not received after 90 days from the due date.

d. Paragraph (f), which would have implemented the proposed rebate program, has been removed.

6. In § 677.7, paragraph (g) has been changed to refer to the revised program for the first year of the Research Plan instead of the proposed rebate program.

7. In § 677.10 the following changes have been made in addition to those referred to under item 4.

a. Paragraph (a)(3) has been changed to include references to Alaska State observer coverage requirements at 5 AAC 34.035, 34.082, and 35.082.

b. Paragraph (c) has been revised to remove the reference to required compliance with U.S. Coast Guard vessel safety requirements. This requirement was moved to a new paragraph (g).

c. Paragraph (c)(1) has been revised to remove a proposed requirement that vessel operators provide accommodations for observers that are equivalent to those provided for officers of the vessel. The regulatory language has been clarified to implement the intent of the proposed rule to require a vessel operator to treat the observer with respect and not provide the observer with accommodations reflective of the lowest level crew onboard the vessel.

d. Paragraph (e) has been revised to clarify that if contractors for observer coverage are not notified within specified time periods, the availability of an observer to meet observer coverage requirements will not be guaranteed.

e. Paragraph (f) has been revised to reflect recent rulemaking that authorized the release of specified observer data on prohibited species bycatch (59 FR 18757, April 20, 1994).

f. Paragraph (g) has been added to clarify a requirement formerly at paragraph (c) that vessels required to carry observers must pass a U.S. Coast Guard safety inspection. Safety requirements for all vessels are clarified. Observers will not be stationed aboard vessels not meeting safety requirements.

8. In § 677.11, regulatory language has been added that would authorize the annual specification of standard exvessel prices by season, area, gear, and processing sector. Reference to the annual specification of "standardized cost(s) of an observer day" also has been removed because this term no longer is applicable.

Classification

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act. Public reporting burden for each year of this collection is estimated to average 0.33 hour per response for completing the semiannual FPP–1, 0.25 hour per response for notifying contractors of needs for observers, and 1.0 hour per response to provide information to document claims of disputed bills. For the first year of the Research Plan, completion of FPP–2 by observer contractors for payment of observer coverage by processor vessels and shoreside processing facilities is estimated to average 0.16 hours per response. All reporting burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The collection of information has been approved by the Office of Management and Budget, OMB control numbers 0648–0206 (Processor Permit Application) and 0648–0280 (North Pacific Fisheries Research Plan).

The Council, NMFS, and the Alaska Department of Fish and Game prepared a final Regulatory Flexibility Analysis as part of the Regulatory Impact Review. A copy of this analysis is available from the Council at (See **ADDRESSES**).

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

List of Subjects

50 CFR Part 204

Reporting and recordkeeping requirements.

50 CFR Parts 301, 671, 672, 675, 676, and 677

Fisheries, Reporting and recordkeeping requirements.

Dated: August 25, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, title 50 CFR Chapters II, III, and VI are amended as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 204.1 [Amended]

2. The table in § 204.1(b) is amended by adding in the left-hand column, in numerical order, the entries "677.4, 677.5", 677.6", and 677.10"; and adding in the right-hand column, in corresponding positions, the entry ["–0280"].

PART 301—PACIFIC HALIBUT FISHERIES

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

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

4. Section 301.23 is added to read as follows:

§ 301.23 North Pacific Fisheries Research Plan.

Permit requirements, observer requirements, and fee assessments for the Northern Pacific halibut fishery under the North Pacific Fisheries Research Plan are contained in part 677 of this title.

PART 671—KING AND TANNER CRAB FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS

5. The authority citation for part 671 continues to read as follows:

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

6. A new § 671.4 is added to subpart A to read as follows:

§ 671.4 Permits.

All processors of Bering Sea and Aleutian Islands area king and Tanner crab must comply with permit requirements contained in § 677.4 of this chapter.

7. A new § 671.21 is added to subpart B to read as follows:

§ 671.21 Observer requirements.

Bering Sea and Aleutian Islands area king and Tanner crab observer requirements are contained in part 677 of this chapter.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

8. The authority citation for part 672 continues to read as follows:

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

9. In § 672.4, paragraphs (b)(1) through (b)(10) are redesignated paragraphs (b)(1)(i) through (b)(1)(x), respectively; introductory text of paragraph (b) is redesignated as introductory text of paragraph (b)(1); and a new paragraph (b)(2) is added to read as follows:

§ 672.4 Permits.

* * * * *

(b) * * *

(2) All processors of Gulf of Alaska groundfish must comply with permit requirements contained in § 677.4 of this chapter, in addition to any applicable requirements of this § 672.4.

* * * * *

10. Section 672.27 is revised to read as follows:

§ 672.27 Observer requirements.

Gulf of Alaska groundfish observer requirements are contained in part 677 of this chapter.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

11. The authority citation for part 675 continues to read as follows:

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

12. In § 675.4, paragraphs (b)(1) through (b)(10) are redesignated paragraphs (b)(1)(i) through (b)(1)(x), respectively; introductory text of paragraph (b) is redesignated as introductory text of paragraph (b)(1); and a new paragraph (b)(2) is added to read as follows:

§ 675.4 Permits.

* * * * *

(b) * * *

(2) All processors of Bering Sea and Aleutian Islands management area groundfish must comply with permit requirements contained in § 677.4 of this chapter, in addition to any applicable requirements of this § 675.4.

* * * * *

13. Section 675.25 is revised to read as follows:

Note: This revision supersedes the amendments to § 675.25 published in the emergency interim rule at 59 FR 35479, July 12, 1994:

§ 675.25 Observer requirements.

Bering Sea and Aleutian Islands management area groundfish observer requirements are contained in part 677 of this chapter.

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF ALASKA

14. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

15. In § 676.13, paragraph (a)(1) introductory text is revised to read as follows:

§ 676.13 Permits.

(a) * * *

(1) In addition to the permit and licensing requirements prescribed at 50 CFR parts 301 of this title, and 672, 675, and 677 of this chapter, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have onboard:

* * * * *

16. In § 676.16, paragraph (q) is redesignated paragraph (r) and a new paragraph (q) is added to read as follows:

§ 676.16 General prohibitions.

* * * * *

(q) Any person who is issued a registered buyer permit under § 676.13(a)(2) and who also is required to obtain a Federal processing permit under § 677.4 of this chapter may not transfer or receive sablefish harvested in Federal waters or halibut, unless the person possesses a valid permit issued under § 677.4 of this chapter.

17. Part 677 is added to read as follows:

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

Subpart A—General Provisions of the North Pacific Fisheries Research Plan

Sec.

677.1 Purpose and scope.
677.2 Definitions.
677.3 Relation to other laws.
677.4 Permits.
677.5 Recordkeeping and reporting.
677.6 Research Plan fee.
677.7 General prohibitions.
677.8 Facilitation of enforcement.
677.9 Penalties.
677.10 General requirements.
677.11 Annual Research Plan specifications.
677.12 Compliance.

Subpart B—General Provisions of Risk-Sharing Pool for Insurance Purposes [Reserved]

Figures—Part 677

Figure 1—Federal Processing Permit Application (Form FPP–1).
Figure 2—Observer Coverage Payment Receipt (Form FPP–2).

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

Subpart A—General Provisions of the North Pacific Fisheries Research Plan

§ 677.1 Purpose and scope.

(a) These regulations implement the North Pacific Fisheries Research Plan developed by the North Pacific Fishery Management Council under the Magnuson Act.

(b) Regulations in this part govern elements of the Research Plan for the following fisheries under the Council's authority: Bering Sea and Aleutian Islands management area groundfish, Gulf of Alaska groundfish, and Bering Sea and Aleutian Islands area king and Tanner crab in the exclusive economic zone; and halibut from convention waters off Alaska.

§ 677.2 Definitions.

In addition to the definitions in the Magnuson Act and in 50 CFR part 620, the terms used in this part have the following meanings:

ADF&G means the Alaska Department of Fish and Game.

Bering Sea and Aleutian Islands area is defined at § 671.2 of this chapter.

Bering Sea and Aleutian Islands management area is defined at § 675.2 of this chapter.

Bimonthly refers to a time period equal to 2 calendar months. Six consecutive bimonthly periods are established each year, as follows: January 1–February 29; March 1–April 30; May 1–June 30; July 1–August 31; September 1–October 31; and November 1–December 31.

Catcher/processor means a processor vessel that is used for, or equipped to be used for, catching fish and processing that fish.

Catcher vessel means a vessel that is used for catching fish and does not process fish on board.

Commissioner of ADF&G means the principal executive officer of ADF&G.

Convention waters off Alaska means all waters off Alaska in halibut regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E as defined in part 301 of this title.

Exvessel price means the price in dollars received by a harvester for fish from Research Plan fisheries. Exvessel price excludes any value added by processing.

Fee percentage means the annually calculated assessment rate, in percent of exvessel value of Research Plan fisheries, used to determine fee assessments under the Research Plan.

Fishermen means persons who catch, take, or harvest fish.

Fishing day means a 24-hour period, from 0001 A.l.t. through 2400 A.l.t., in which fishing gear is retrieved and groundfish, halibut, or king or Tanner crab are retained. Days during which a vessel only delivers unsorted codends to a processor are not fishing days.

Fishing trip means one of the following time periods:

(1) *For a vessel used to process groundfish or a catcher vessel used to deliver groundfish to a mothership processor vessel*—a weekly reporting period, as defined at § 672.2 or § 675.2 of this chapter, during which one or more fishing days occur.

(2) *For a catcher vessel used to deliver fish to other than a mothership processor vessel*—the time period during which one or more fishing days occur that starts on the day when fishing gear is first deployed and ends on the day the vessel: Offloads groundfish, halibut, or king or Tanner crab; returns to an Alaskan port; or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.

Groundfish is defined at § 672.2 or § 675.2 of this chapter.

Gulf of Alaska is defined at § 672.2 of this chapter.

Halibut means Pacific halibut (*Hippoglossus stenolepis*).

King crab means red king crab (*Paralithodes camtschatica*), blue king crab (*P. platypus*), brown (or golden) king crab (*Lithodes aequispina*), and scarlet (or deep sea) king crab (*Lithodes couesi*).

Landing is defined at § 672.2 of this chapter.

Length overall (LOA) is defined at § 672.2 of this chapter.

Mothership processor vessel means a processor vessel that receives and processes fish from other vessels and is not used for, or equipped to be used for, catching fish.

Processing or *to process* means the preparation of fish to render it suitable for human consumption, industrial uses, or long term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

Processor means any facility or vessel that processes fish for commercial use or consumption, any person except a restaurant who receives fish from fishermen for commercial purposes, and fishermen who sell fish directly to a restaurant or to another individual for use as bait or personal consumption.

Regional Director means the Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

Research Plan means the North Pacific Fisheries Research Plan developed by the North Pacific Fishery Management Council under the Magnuson Act.

Research Plan fisheries means the following fisheries: Bering Sea and Aleutian Islands management area groundfish, Gulf of Alaska groundfish, Bering Sea and Aleutian Islands area king and Tanner crab, and halibut from convention waters off Alaska.

Retained catch means the catch retained by a processor, in round weight or round-weight equivalents, from Research Plan fisheries.

Round weight or round-weight equivalent means:

(1) *For groundfish or halibut*—the weight of fish calculated by dividing the weight of the primary product made from that fish by the standard product recovery rate as determined using the best available evidence on a case-by-case basis.

(2) *For Bering Sea and Aleutian Islands area crab processed by catcher/processors*—scale weight of a subsample multiplied by the number of subsamples comprising the retained catch.

(3) *For Bering Sea and Aleutian Islands area crab processed by mothership processor vessels or shoreside processors*—scale weights of retained catches.

Shoreside processor or *shoreside processing facility* means any person that receives unprocessed fish, except catcher/processors, mothership processor vessels, restaurants, or persons receiving fish for use as bait or personal consumption.

Standard exvessel price means the exvessel price for species harvested in Research Plan fisheries, calculated annually by NMFS for each species or species group, from exvessel price information for all product forms, used in determining fee assessments.

Tanner crab means *Chionoecetes* species or hybrids of these species.

§ 677.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) through (c) of this section.

(b) *Domestic fishing for groundfish.* Regulations governing the conservation and management of groundfish in the Gulf of Alaska and the Bering Sea and Aleutian Islands management area are set forth at parts 672 and 675 of this chapter, respectively. The conservation and management of groundfish in waters of the territorial sea and internal waters of the State of Alaska are governed by Alaska Administrative Code at 5 AAC Chapter 28 and Alaska Statute at A.S. 16.

(c) *King and Tanner crab fishing.* The conservation and management of king crab and Tanner crab in the Bering Sea and Aleutian Islands area are governed by Alaska Statutes at A.S. 16 and Alaska Administrative Code at 5 AAC Chapters 34, 35, and 39; and at part 671 of this chapter.

§ 677.4 Permits.

(a) *General.* In addition to the permit and licensing requirements at § 301.3 of this title and 672.4, 675.4, and 676.13 of this chapter, all processors of fish from Research Plan fisheries must have a Federal Processor Permit issued by the Regional Director under this section. Such permits shall be issued without charge.

(b) *Application.* The permit required under paragraph (a) of this section may be obtained by submitting to the Regional Director a completed Federal Processor Permit Application (Form FPP–1; see figure 1 to part 677) containing the following information:

(1) The semiannual period for which the permit is requested.

(2) The Research Plan fishery or fisheries for which the permit is requested.

(3) If the application is for an amended permit, the current Federal Processor Permit number and an indication of the information that is being amended.

(4) The processor owner's name or names, business mailing address, telephone number, and FAX number.

(5) If the processor is a shoreside processor, the plant's name, business mailing address, ADF&G Processor Code, telephone number, and FAX number.

(6) If the processor is a vessel, the vessel's name, home port, net tonnage, length overall, U.S. Coast Guard number, telephone number, FAX number, INMARSAT (satellite communications) number, and ADF&G number.

(7) The applicant's name, signature, and date.

(c) *Issuance.* (1) Permits required under this section will be issued semiannually by the Regional Director.

(2) The Regional Director will issue a permit required under paragraph (a) of this section upon receipt of a complete application, if all Research Plan fees due are paid. Upon receipt of an incomplete or improperly completed application, or if Research Plan fees are not paid, the Regional Director will notify the applicant of the deficiency. No permit will be issued to an applicant until a complete application is submitted and all fees are paid.

(d) *Notification of change.* Any person who has applied for and received a permit under this section must notify the Regional Director, in writing, of any change in the information provided under paragraph (b) of this section within 10 days of the date of that change.

(e) *Duration.* The permit issued by the Regional Director will continue in full force and effect for the period January 1 through June 30, or July 1 through December 31, of the year for which it is issued, or until it is revoked, suspended, or modified under part 621 (Civil Procedures) of this chapter.

(f) *Alteration.* No person may alter, erase, or mutilate any permit issued under this section. Any permit that has been intentionally altered, erased, or mutilated is invalid.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. Each permit is valid only for the processor for which it is issued. The Regional Director must be notified of a change in ownership, pursuant to paragraph (d) of this section.

(h) *Inspection.* The permit issued under this section must be maintained on the processor vessel or at the shoreside processor. The permit must be available for inspection upon request by an authorized officer or any employee of NMFS, ADF&G, or the Alaska Department of Public Safety designated by the Regional Director, Commissioner of ADF&G, or Commissioner of the Alaska Department of Public Safety.

(i) *Sanctions.* Procedures governing permit sanctions are found at subpart D of 15 CFR part 904.

(j) *Disclosure.* NMFS will maintain a list of permitted processors that may be disclosed for public inspection.

§ 677.5 Recordkeeping and reporting.

(a) *Applicability.* Any processor that retains fish from a Research Plan fishery is responsible for compliance with the applicable recordkeeping and reporting requirements of this part.

(b) *General requirements.* Any form, record, or report that is required to be submitted or provided to the Regional Director must be addressed or delivered to the National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Submissions must be complete, legible, and in English.

§ 677.6 Research Plan fee.

(a) *Fee percentage.* The fee percentage will be set annually under procedures at § 677.11, such that the total fees equal the lesser of the following:

(1) The cost of implementing the Research Plan, including nonpayments, minus any other Federal funds that support the Research Plan and any existing surplus in the North Pacific Fishery Observer Fund; or

(2) Two percent of the exvessel value of all Research Plan fisheries.

(b) *Fee assessment*—(1) *Fee assessments applicable from January 1, 1995, through December 31, 1995.* (i) NMFS will calculate bimonthly fee assessments for each processor of Research Plan fisheries based on the best available information received by the Regional Director since the last bimonthly billing period on the amount of fish retained by the processor from Research Plan fisheries. Fee assessments will not be calculated for the retained amounts of whole fish processed into meal product.

(ii) The bimonthly fee assessment calculated by NMFS for each shoreside processor or mothership processor vessel retaining groundfish shall equal the sum of:

(A) The round weight or round-weight equivalent of retained catch of each groundfish species delivered by catcher vessels equal to and greater than 60 ft (18.3 m) LOA determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by one-half the fee percentage established pursuant to § 677.11 for the calendar year; plus

(B) The round weight or round-weight equivalent of retained catch of each groundfish species delivered by catcher vessels less than 60 ft (18.3 m) LOA determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by the fee percentage established pursuant to § 677.11 for the calendar year.

(iii) The bimonthly fee assessment calculated by NMFS for each processor retaining king or Tanner crab shall equal the sum of:

(A) The round weight or round-weight equivalent of retained catch of *Chionoecetes tanneri* Tanner crab, *C. angulatus* Tanner crab, and *Lithodes cousei* king crab determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by one-half the fee percentage established pursuant to § 677.11 for the calendar year; plus

(B) The round weight or round-weight equivalent of retained catch of king or Tanner crab, except for those species listed under paragraph (b)(1)(iii)(A) of this section, determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by the fee percentage established pursuant to § 677.11 for the calendar year.

(iv) Except as provided in paragraph (b)(1)(ii) of this section, the bimonthly fee assessment calculated by NMFS for each processor that retains groundfish or halibut is the round weight or round-weight equivalent of retained catch of these species determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by the fee percentage established pursuant to § 677.11 for the calendar year.

(2) *Fee assessments applicable after December 31, 1995.* The bimonthly fee assessment calculated by NMFS for each processor of Research Plan fisheries is the round weight or round-weight equivalent of retained catch for each species from Research Plan fisheries determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by the fee percentage established pursuant to § 677.11 for the calendar year. Fee assessments will not be calculated for the retained amounts of whole fish processed into meal product.

(c) *Fee assessment payments.* NMFS will bill each processor of Research Plan fisheries for bimonthly fee assessments calculated under paragraph (b) of this section. Each processor must collect and pay the bimonthly fee assessments. Bimonthly fee assessment payments must be in the form of certified check, draft, or money order payable in U.S. currency to "The Department of Commerce/NOAA." Except as provided in paragraphs (d) and (e) of this section, payment in full must be received by the financial institution authorized by the U.S. Treasury to receive these funds within 30 calendar days from the date of issuance of each bimonthly fee assessment bill. Payments will be deposited in the North Pacific Fishery Observer Fund within the U.S. Treasury.

(d) *Credit for observer coverage costs incurred from January 1, 1995, through December 31, 1995*—(1) *General.* Subject to the limitations set out in paragraph (d)(2) of this section, each processor may subtract from its portion of the processor's billed fee assessment the cost of observer coverage paid by the processor to an observer contractor(s) for the processor's compliance with observer coverage requirements at § 677.10(a).

(2) *Limitations.* (i) Only those payments to observer contractors for observer coverage required under § 677.10(a) of this part that are received by observer contractors prior to April 1, 1996, will be credited against a processor's billed fee assessment under this paragraph (d).

(ii) The amount that may be subtracted from a catcher/processor's billed fee assessment for retained catch of groundfish is limited to the actual cost of observer coverage required under § 677.10(a) of this part up to an amount equal to the fee assessment calculated under paragraph (b)(1)(iv) of this section.

(iii) The amount that may be subtracted from a shoreside processor's

or mothership processor vessel's billed fee assessment for retained catch of groundfish is limited to the actual cost of observer coverage required under § 677.10(a) of this part up to an amount equal to the sum of the fee assessment calculated under paragraph (b)(1)(ii)(A) of this section plus one-half the fee assessment calculated under paragraph (b)(1)(ii)(B) of this section.

(iv) The amount that may be subtracted from a catch/processor or mothership processor vessel's billed fee assessment for retained catch of king or Tanner crab is limited to the actual cost of observer coverage required under § 677.10(a) of this part up to an amount equal to the sum of the fee assessment calculated under paragraph (b)(1)(iii)(A) of this section plus one-half the fee assessment calculated under paragraph (b)(1)(iii)(B) of this section.

(3) *Processor Account Status*—(i) *Credit applied by NMFS to bimonthly fee assessments.* If a processor's cost for observer coverage required under § 677.10(a) during a bimonthly period exceeds the calculated fee assessment for that period, the Regional Director will credit the processor's next bimonthly fee assessment up to an amount equal to the remaining observer coverage costs as reported to the Regional Director under paragraph (d)(4) of this section, or the bimonthly fee assessment, whichever is less.

(ii) *Refunds.* As soon as practicable after April 1, 1996, NMFS will issue a refund to a processor for any portion of the processor's costs for observer coverage required under § 677.10(a) and reported to the Regional Director under paragraph (d)(4) of this section up to an amount equal to the sum of the bimonthly fee assessments paid by the processor for retained catch during 1995, provided that:

(A) These observer coverage costs previously have not been subtracted from the processor's billed fee assessment;

(B) Payment for observer coverage required under § 677.10(a) have been received by observer contractors prior to April 1, 1996;

(C) The processor has not applied for a semiannual processor permit under § 677.4 prior to April 1, 1996; and

(D) The bimonthly fee assessments billed to the processor under § 677.6(b)(1) have been paid.

(4) *Recordkeeping and reporting, for purposes of this paragraph (d)*—(i) *Processor requirements.* (A) All processors that subtract costs for observer coverage from their bimonthly fee assessment under this paragraph (d) must submit to the Regional Director a copy of each paid invoice for observer coverage and a copy of the check, money order, or other form of payment sent to the observer contractor in payment for observer coverage listed on the invoice.

(B) The information required under paragraph (d)(4)(i)(A) of this section must be sent to the following address at the time the processor submits the payment of the bimonthly fee assessment to the Department of Commerce/NOAA under paragraph (c) of this section: NMFS, Alaska Fisheries Science Center, Observer Program, 7600 Sand Point Way NE., Building 4, Bin C 15700, Seattle, WA 98115–0070, Attn: Research Plan Coordinator.

(ii) *Observer contractor requirements.* (A) Observer contractors must submit to the Regional Director a completed Observer Coverage Payment Receipt Form (Form FPP–2; see figure 2 to part 677) for each payment received from a processor for compliance with observer coverage requirements at § 677.10(a) and a copy of the check, money order, or other form of payment. Each completed form and the attached copy of the record of payment must be submitted to the following address within 7 days after payment is received: NMFS, Alaska Fisheries Science Center, Observer Program, 7600 Sand Point Way NE., Building 4, Bin C 15700, Seattle, WA 98115–0070, Attn: Research Plan Coordinator.

(B) *Observer Coverage Payment Receipt Form.* Observer contractors may obtain Observer Coverage Payment Receipt Forms from the Regional Director. The form requests the following information:

(*1*) Observer contractor name and signature of a person serving as a representative for the observer contractor;

(*2*) Identification of the processor vessel or shoreside processing facility that received observer coverage;

(*3*) Name of the observer(s) and date(s) of deployment for observer coverage;

(*4*) The name and mailing address of the person who paid for observer coverage; and

(*5*) The total amount paid for observer coverage and the date payment for observer coverage was received; and

(*6*) Copies of the check, money order, or other form of payment.

(e) *Disputed fee assessments.* A processor must notify the Regional Director, in writing, within 30 days of issuance of a bimonthly fee assessment bill, if any portion of the bimonthly fee assessment bill is disputed. The processor must pay the undisputed amount of the bimonthly fee assessment bill within 30 days of its issuance, and provide documentation supporting the disputed portion claimed to be under- or over-billed. The Regional Director will review the bimonthly fee assessment bill and the documentation provided by the processor, and will notify the processor of his determination within 60 days of the date of issuance of the bimonthly fee assessment bill. If the Regional Director determines a billing error has occurred, the processor's account will be rectified by credit or issuance of a corrected fee assessment bill. If the Regional Director determines that a billing error has not occurred, the outstanding payment on the bimonthly fee assessment bill will be considered past-due from the date 30 days from the date of issuance of the bill and late charges will be assessed under paragraph (f) of this section. If the processor does not dispute the amount of the fee assessment bill within 30 days of its issuance, the fee assessment will be final, and will be due to the United States.

(f) *Late charges.* The NOAA Office of the Comptroller shall assess late charges in the form of interest and administrative charges for late payment of fee assessments. Interest will accrue on the unpaid amount at a percentage rate established by the Federal Reserve Board and applied to funds held by the U.S. Treasury for each 30-day period, or portion thereof, that the payment is overdue. Payment received after 90 days from the due date will be charged an additional late payment penalty charge of 6 percent of the balance due.

§ 677.7 General prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it shall be unlawful for any person to do any of the following:

(a) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer.

(b) Interfere with or bias the sampling procedure employed by an observer, including sorting or discarding any catch before sampling; or tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(c) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(d) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or

otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(e) Process fish from a Research Plan fishery without a valid permit issued pursuant to this part.

(f) Deliver fish from a Research Plan fishery to a processor not possessing a valid permit issued pursuant to this part.

(g) Subtract from a billed fee assessment costs paid for observer coverage under provisions of § 677.6(d) that are based on false or inaccurate information.

(h) Fish for or process fish without observer coverage required under § 677.10.

(i) Require an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

§ 677.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 677.9 Penalties.

See § 620.9 of this chapter.

§ 677.10 General requirements.

(a) *Observer requirements applicable through December 31, 1995*—(1) *Requirements for operators of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish vessels*—(i) *Coverage requirements.* Observer coverage is required as follows:

(A) A mothership processor vessel of any length that processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer onboard the vessel each day it receives or processes groundfish during that month.

(B) A mothership processor vessel of any length that processes from 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer on board the vessel at least 30 percent of the days it receives or processes groundfish during that month.

(C) A catcher/processor or catcher vessel 125 ft (38.1 m) LOA or longer must carry a NMFS-certified observer at all times while fishing for groundfish, except for a vessel fishing for groundfish with pot gear as provided in paragraph (a)(1)(i)(F) of this section.

(D) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA, but less than 125 ft (38.1 m) LOA, must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry a NMFS-certified observer during at least one fishing trip during that calendar quarter for each of the groundfish fishery categories defined under paragraph (a)(1)(ii) of this section in which the vessel participates.

(E) A catcher/processor or catcher vessel fishing with hook-and-line gear that is required to carry an observer under paragraph (a)(1)(i)(D) of this section must carry a NMFS-certified observer during at least one fishing trip in the Eastern Regulatory Area of the Gulf of Alaska during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area.

(F) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish using pot gear must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (a)(1)(ii) of this section in which the vessel participates.

(ii) *Groundfish fishery categories requiring separate coverage*—(A) *Pollock fishery.* Fishing that results in a retained catch of pollock, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(B) *Pacific cod fishery.* Fishing that results in a retained catch of Pacific cod, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(C) *Sablefish fishery.* Fishing that results in a retained catch of sablefish, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(D) *Rockfish fishery.* Fishing that results in a retained aggregate catch of rockfish of the genera *Sebastes* and *Sebastolobus*, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(E) *Flatfish fishery.* Fishing that results in a retained aggregate catch of all flatfish species, except Pacific halibut, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(F) *Other species fishery.* Fishing that results in a retained catch of groundfish, during any fishing trip, that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (a)(1)(ii)(A) through (E) of this section.

(iii) *Assignment of vessels to fisheries.* At the end of any fishing trip, a vessel's retained catch composition of groundfish species or species groups for which a TAC has been specified under § 672.20 or § 675.20 of this chapter, in round weight or round-weight equivalents, will determine to which of the fishery categories listed under paragraph (a)(1)(ii) of this section the vessel is assigned.

(A) A catcher/processor will be assigned to a fishery category at the end of a fishing trip based on the round weight or round-weight equivalent of the retained groundfish catch composition reported on the vessel's weekly production report submitted to the Regional Director under § 672.5(c)(2) or § 675.5(c)(2) of this chapter.

(B) A catcher vessel that delivers to mothership processor vessels in Federal waters will be assigned to a fishery category at the end of a fishing trip based on the round weight or round-weight equivalent of the retained groundfish catch composition reported on the weekly production report submitted to the Regional Director for that week by the mothership processor vessel under § 672.5(c)(2) or § 675.5(c)(2) of this chapter.

(C) A catcher vessel that delivers groundfish to a shoreside processor or to a mothership processor vessel in Alaska State waters at the end of a fishing trip will be assigned to a fishery category based on the round weight or round-weight equivalent of the retained

groundfish catch composition delivered to a processor(s) at the end of that fishing trip and reported on one or more ADF&G fish tickets as required under Alaska Statutes at A.S. 16.05.690.

(2) *Requirements for managers of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish shoreside processing facilities.* Observer coverage is required as follows:

(i) A shoreside processing facility that processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility each day it receives or processes groundfish during that month.

(ii) A shoreside processing facility that processes 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

(3) *Requirements for vessel operators of Bering Sea and Aleutian Islands area king and Tanner crab.* An operator of a vessel that processes king or Tanner crab or that harvests *C. tanneri* Tanner crab, *C. angulatus* Tanner crab, or *L. cousei* king crab, must have one or more State of Alaska-certified observers on board the vessel whenever king or Tanner crab are received, processed, or onboard the vessel in the Bering Sea and Aleutian Islands area if the operator is required to do so by Alaska State regulations at 5 AAC 34.035, 34.082, 35.082, or 39.645.

(b) *Observer requirements applicable after December 31, 1995*—(1) *General requirements for Research Plan fisheries*—(i) *Requirements for operators of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish vessels and halibut from convention waters off Alaska.* An operator of a vessel that catches and retains groundfish or halibut, or a vessel that processes groundfish or halibut, must carry one or more NMFS-certified observers onboard the vessel whenever fishing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (b)(2) of this section.

(ii) *Requirements for managers of shoreside processing facilities of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish and halibut from convention waters off Alaska.* A manager of a shoreside processing facility that processes groundfish or halibut received from vessels regulated under this part must have one or more NMFS-certified observers present at the facility whenever groundfish or halibut are received or processed, if the manager is required to do so by the Regional Director under paragraph (b)(2) of this section.

(iii) *Requirements for vessel operators of Bering Sea and Aleutian Islands area king and Tanner crab.* An operator of a vessel subject to this part must carry one or more NMFS-certified observers or ADF&G employees onboard the vessel whenever fishing or processing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (b)(2) of this section.

(iv) *Requirements for managers of shoreside processing facilities of Bering Sea and Aleutian Islands area king and Tanner crab.* A manager of a shoreside processing facility that processes king or Tanner crab received from vessels regulated under this part must have one or more NMFS-certified observers, or ADF&G employees, present at the facility whenever king or Tanner crab is received or processed, if the manager is required to do so by the Regional Director under paragraph (b)(2) of this section.

(2) *Observer coverage for Research Plan fisheries*—(i) *Annual determination of coverage level.* The appropriate level of observer coverage necessary to achieve the objectives of the Research Plan, given the funds available from the North Pacific Fishery Observer Fund, will be established annually under procedures in § 677.11.

(ii) *Inseason changes in coverage level.* (A) The Regional Director may increase or decrease the observer coverage requirements for the Research Plan fisheries at any time to improve the accuracy, reliability, and availability of observer data, and to ensure solvency of the observer program, so long as the standards of section 313 of the Magnuson Act and other applicable Federal regulations are met, and the changes are based on one or more of the following:

(*1*) A finding that there has been, or is likely to be, a significant change in fishing methods, times, or areas, or catch or bycatch composition for a specific fishery or fleet component.

(*2*) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(*3*) A finding that any decrease in observer coverage resulting from unanticipated funding shortfalls is consistent with the following priorities:

(*i*) Status of stock assessments;

(*ii*) Inseason management;

(*iii*) Bycatch monitoring; and

(*iv*) Vessel incentive programs and regulatory compliance.

(*4*) A determination that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revised program, and are necessary to meet fishery management needs.

(B) [Reserved]

(iii) The Regional Director will consult with the Commissioner of ADF&G prior to making inseason changes in observer coverage level for the crab observer program.

(iv) NMFS will publish changes in observer coverage requirements made under paragraph (b)(2)(ii) of this section in the **Federal Register**, with the reasons for the changes and any special instructions to vessels required to carry observers, at least 10 calendar days prior to their implementation.

(c) *Vessel responsibilities.* An operator of a vessel must:

(1) Provide, at no cost to observers, the State of Alaska, or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(2) Maintain safe conditions on the vessel for the protection of observers during the time observers are on board the vessel, by adhering to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(3) Allow observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States.

(4) Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(6) Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(7) Allow observers to inspect and copy the vessel's daily fishing logbook, daily cumulative production logbook,

transfer logbook, any other logbook or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(8) Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to, assisting the observers in measuring decks, codends, and holding bins; providing the observers with a safe work area adjacent to the sample collection site; providing crab observers with the necessary equipment to conduct sampling, such as scales, fish totes, and baskets; assisting in collecting bycatch when requested by the observers; assisting in collecting and carrying baskets of fish when requested by observers; and allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(9) Move the vessel to such places and at such times as may be designated by the contractor, as instructed by the Regional Director, for purposes of embarking and debarking observers.

(10) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(11) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(12) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(13) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(d) *Shoreside processor responsibilities.* A manager of a shoreside processing facility must:

(1) Maintain safe conditions at the shoreside processing facility for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(2) Notify the observers, as requested, of the planned facility operations and expected receipt of groundfish, crab, or halibut prior to receipt of those fish.

(3) Allow the observers to use the shoreside processing facility's communication equipment, on request, for the entry, transmission, and receipt of work-related messages at no cost to the observers, the State of Alaska, or the United States.

(4) Allow observers free and unobstructed access to the shoreside processing facility's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(5) Allow observers to inspect and copy the shoreside processing facility's daily cumulative production logbook, transfer logbook, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(6) Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to, assisting the observer in moving and weighing totes of fish, cooperating with product recovery tests, and providing a secure place to store baskets of sampling gear.

(e) *Notification of observer contractors by processors and operators of vessels required to carry observers.* (1) Processors and operators of vessels required to carry observers under the Research Plan are responsible for meeting their observer coverage requirements. Processors and vessel operators must notify the appropriate observer contractor, as identified by NMFS, in writing or facsimile copy, at least 60 days prior to the need for an observer, to ensure that an observer will be available. Processors and vessel operators must notify the appropriate observer contractor again, in writing, facsimile copy, or by telephone, at least 10 days prior to the need for an observer, to make final arrangements for observer deployment.

(2) If observer contractors are not notified within the time periods set out at paragraph (e)(1) of this section, the availability of an observer to meet observer coverage requirements will not be guaranteed.

(3) Names of observer contractors, information for contacting contractors, and a list of embarkment/disembarkment ports for observers will be published in the **Federal Register** annually, prior to the beginning of the calendar year pursuant to § 677.11.

(f) *Release of observer data to the public*—(1) *Summary of weekly data.* The following information collected by observers for each catcher processor and catcher vessel during any weekly reporting period may be made available to the public:

(i) Vessel name and Federal permit number;

(ii) Number of chinook salmon and "other salmon" observed;

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled catch;

(iv) The ratio of number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls;

(v) The number of observed trawl hauls or fixed gear sets;

(vi) The number of trawl hauls that were basket sampled; and

(vii) The total weight of basket samples taken from sampled trawl hauls.

(2) *Haul-specific data.* (i) The information listed in paragraphs (f)(2)(i)(A) through (M) of this section and collected by observers from observed hauls onboard vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(A) Date.

(B) Time of day gear is deployed.

(C) Latitude and longitude at beginning of haul.

(D) Bottom depth.

(E) Fishing depth of trawl.

(F) The ratio of the number of chinook salmon to the total round weight of groundfish.

(G) The ratio of the number of other salmon to the total round weight of groundfish.

(H) The ratio of total round weight of halibut to the total round weight of groundfish.

(I) The ratio of total round weight of herring to the total round weight of groundfish.

(J) The ratio of the number of king crab to the total round weight of groundfish.

(K) The ratio of the number of *C. bairdi* Tanner crab to the total round weight of groundfish.

(L) Sea surface temperature (where available).

(M) Sea temperature at fishing depth of trawl (where available).

(ii) The identity of the vessels from which the data in paragraph (f)(2)(i) of this section are collected will not be released.

(3) In exceptional circumstances, the owners and operators of vessels may provide to the Regional Director written justification at the time observer data are submitted, or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (f) (1) and (2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

(g) *Vessel safety requirements applicable after December 31, 1995.* Any vessel that is required to carry observers under paragraph (b)(1) of this section must have onboard either:

(1) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in Titles 33 CFR chapter I and 46 CFR chapter I,

(2) A certificate of compliance issued pursuant to 46 CFR 28.710, or

(3) A valid certificate of inspection pursuant to 46 U.S.C. 3311. NMFS will not station observers aboard vessels that do not meet this requirement.

§ 677.11 Annual Research Plan specifications.

(a) *Proposed Research Plan specifications.* Annually, after consultation with the Council, and, in the case of observer coverage levels in the crab fisheries, the State of Alaska, NMFS will publish for public comment in the **Federal Register**: Proposed standard exvessel prices, total exvessel value, fee percentage, levels of observer coverage for Research Plan fisheries, and embarkment/disembarkment ports for observers, for the calendar year.

(1) *Standard exvessel prices.* Standard exvessel prices will be used in determining the annual fee percentage for the calendar year and will be the basis for calculating fee assessments. Standard exvessel prices for species harvested in Research Plan fisheries for each calendar year will be based on:

(i) Exvessel price information by applicable season, area, gear, and processing sector for the most recent 12-month period for which data are available;

(ii) Factors that are expected to change exvessel prices in the calendar year; and

(iii) Any other relevant information that may affect expected exvessel prices during the calendar year.

(2) *Total exvessel value.* The total exvessel value of Research Plan fisheries will be calculated as the sum of the product of the standard exvessel prices established under paragraph (a)(1) of this section and projected retained catches, by species. The value of whole fish processed into meal product will not be included in this calculation.

(3) *Research Plan fee percentage.* The Research Plan fee percentage for a calendar year will equal the lesser of 2 percent of the exvessel value of retained catch in the Research Plan fisheries or the fee percentage calculated using the following equation:

$$\text{Fee percentage} = [100 \times (\text{RRPC} - \text{FB} - \text{OF})/\text{V}]/(1 - \text{NPR})$$

where RRPC is the projection of recoverable Research Plan costs for the coming year, FB is the projected end of the year balance of funds collected under the Research Plan, OF is the projection of other funding for the coming year, V is the projected exvessel value of retained catch in the Research Plan fisheries for the coming year, and NPR is the percent (expressed as a decimal) of fee assessments that are expected to result in nonpayment.

(4) *Observer coverage.* For the period January 1, 1995, through December 31, 1995, observer coverage levels in Research Plan fisheries will be as required by § 677.10(a). After December 31, 1995, the level of observer coverage will be determined annually by NMFS, after consultation with the Council and the State of Alaska, and may vary by fishery and vessel or processor size, depending upon the objectives to be met for the groundfish, halibut, and king and Tanner crab fisheries. The Regional Director may change observer coverage inseason pursuant to § 677.10(b)(2)(ii).

(5) *Embarkment/disembarkment ports.* Ports to be used to embark and disembark observers will be selected on the basis of convenience to the affected industry and on the availability of facilities, transportation, and accommodations deemed by the Regional Director to be necessary for the safe and reasonable deployment of observers.

(b) *Final Research Plan specifications.* NMFS will consider comments received on the proposed specifications and, following consultation with the Council, and with the State, in the case of observer coverage in the crab fisheries, will publish the final total exvessel value; standard exvessel prices; fee percentage; levels of observer coverage for Research Plan fisheries, including names of observer contractors and information for contacting them; and embarkment/disembarkment ports in the **Federal Register** annually prior to the beginning of the calendar year.

§ 677.12 Compliance.

The operator of any fishing vessel subject to this part, and the manager of any shoreside processing facility that receives groundfish, halibut, or king and Tanner crab from vessels subject to this part, must comply with the requirements of this part. The owner of any fishing vessel subject to this part, or any shoreside processing facility that received groundfish, halibut, or king and Tanner crab from vessels subject to this part, must ensure that the operator or manager complies with the requirements of this part and is liable, either individually or jointly and severally, for compliance with the requirements of this part.

Subpart B—General Provisions of Risk-Sharing Pool for Insurance Purposes [Reserved]

Figures—Part 677

Figure 1 to part 677—Federal Processing Permit Application (Form FPP–1).

BILLING CODE 3510–22–W

NOAA 88-155

OMB No. 0648-0206, expires _____

FEDERAL FISHERIES PERMIT APPLICATION FEDERAL PROCESSOR PERMIT APPLICATION (FPP-1)	United States Department of Commerce National Oceanic and Atmospheric Administration National Marine Fisheries Service P.O. Box 21767 Juneau, Alaska 99802-1767

BLOCK A - PERMIT AMENDMENT INFORMATION

If this is an application for an amended permit, provide your current Federal Fisheries Permit number and/or Federal Processor Permit number: _____

Check the item(s) that have changed:

[ ] Vessel information (Block B)
[ ] Shoreside processor information (Block C)
[ ] Owner information (Block D)
[ ] Federal Fisheries Permit information (Block E)
[ ] Federal Processor Permit information (Block F)

BLOCK B - VESSEL INFORMATION

1. Vessel Name		7. Vessel Telephone Number
2. ADF&G Number	3. Coast Guard Number	8. Vessel FAX Number
4. Homeport (City, state)		9. INMARSAT Number
5. Length Overall (Feet)	6. Net Tonnage	

BLOCK C - SHORESIDE PROCESSOR INFORMATION

1. Processor Name	4. Telephone Number
2. Business Street Address (Street, city, state, zip code)	5. FAX Number
3. ADF&G Processor Code	

BLOCK D - OWNER INFORMATION

1. Owner Name(s)	4. Telephone Number
2. Business Mailing Address (Street or box, city, state, zip code)	5. FAX Number
3. Managing Company, if any	

BLOCK E - FEDERAL FISHERIES PERMIT INFORMATION

FEDERAL FISHERIES PERMITS MUST BE RENEWED ANNUALLY.

FISHERIES: The following fisheries in the 3-200 mile zone off Alaska require vessels to have a Federal Fisheries Permit pursuant to 16 USC 1801-1882. Check one, or both, as appropriate:

[ ] Gulf of Alaska Groundfish [ ] Bering Sea and Aleutian Islands Groundfish

VESSEL OPERATIONS CATEGORIES: Indicate the type of operations you conduct in the groundfish fishery. Check Support Vessel OR check any combination of the other five categories.

[ ] Catcher Vessel (Read instructions to determine whether the vessel operator/owner must also complete Block F) *
[ ] Catcher/Processor (complete Block F also) *
[ ] Mothership (complete Block F also) *
[ ] Tender Vessel
[ ] Support Vessel

* Catcher/Processor and Mothership Processor Vessel permits are not valid unless accompanied by a Federal Processor Permit for groundfish. Some Catcher Vessel owners may be required to apply for a Federal Processor Permit.

CATCHER VESSELS AND CATCHER/PROCESSORS ONLY:

GEAR TYPE: Check ONLY the gears used for GROUNDFISH fishing:

[ ] Trawl [ ] Hook and line [ ] Pots [ ] Jig/troll [ ] Other: _____

CATCHER VESSELS ONLY:

[ ] Check here if the only groundfish you expect to catch is bycatch during halibut, crab, or salmon fisheries.
[ ] Check here if you expect to target on groundfish, but only on sablefish (blackcod) in the Gulf of Alaska.

BLOCK F - FEDERAL PROCESSOR PERMIT INFORMATION

FEDERAL PROCESSOR PERMITS MUST BE RENEWED SEMI-ANNUALLY.

Federal Processor Permits are required for all processors of the following fisheries. Check one, or any combination, as appropriate. (See instructions for definition of a processor.)

[ ] Gulf of Alaska Groundfish (GOA, 3-200 mile zone) *
[ ] Bering Sea and Aleutian Islands Groundfish (BSAI, 3-200 mile zone) *
[ ] Bering Sea and Aleutian Islands King and Tanner Crab (3-200 mile zone)
[ ] North Pacific Halibut (Convention waters off Alaska, i.e. State and Federal waters)

* Groundfish Catcher Vessels, Catcher/Processors, and Mothership Processor Vessels that operate inside the 3-200 mile zone off Alaska are also required to have a Federal Fisheries Permit (see Block E).

Indicate the semi-annual permitting period for which you are applying: [ ] January 1 to June 30 Year: _____
[ ] July 1 to December 31

BLOCK G - SIGNATURE

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct and complete.

Applicant's name (please print or type)	Signature	Date

INSTRUCTIONS

A separate application must be completed for each vessel or processor. Type or print legibly in ink; retain a copy of completed application. Completed forms should be mailed to: NMFS Alaska Enforcement Division, P.O. Box 21767, Juneau, AK 99802-1767. If you have any questions, please call Enforcement at 907-586-7225.

BLOCK A - PERMIT AMENDMENT INFORMATION

If you already have a valid Federal permit, but the information originally provided on your application has changed, you should fill out this block. Provide your current Federal Fisheries Permit number and/or your Federal Processor Permit number, and check the item(s) that have changed. Written notification of changes must be received within 10 days of the date of the change.

BLOCK B - VESSEL INFORMATION

Complete Block B if the permit is for a vessel.

Vessel Name - Enter complete vessel name as displayed in official documentation.
ADF&G Number - Enter 5-digit State of Alaska Department of Fish & Game (ADF&G) number (example: 51233).
Coast Guard Number - Enter Coast Guard documentation number (example: 566722) or state registration number (example: AK3456C).
Homeport - Enter homeport (city and state) as recorded in official documentation.
Length Overall - Enter the vessel's length overall in feet, which is defined as the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.
Net Tonnage - Enter registered net tonnage as stated in official documentation.
Vessel Telephone, FAX, and INMARSAT Numbers - Enter telephone, FAX, and INMARSAT (satellite communication) numbers used onboard the vessel.

BLOCK C - SHORESIDE PROCESSOR INFORMATION

Complete Block C if the permit is for a shoreside processor, which is defined as any person, that receives unprocessed fish, except Catcher/Processors, Mothership Processor Vessels, restaurants, or persons receiving groundfish for use as bait or personal consumption.

Processor Name - Enter complete name as displayed in official documentation.
Business Street Address - Enter complete street address of the shoreside processing facility, including street number, city, state and zip code.
ADF&G Processor Code - Enter the Alaska Department of Fish and Game Processor Number assigned to the processor.
Telephone and FAX Numbers - Enter telephone and FAX numbers used at the shoreside processor.

BLOCK D - OWNER INFORMATION

Enter information on the owner of the vessel listed in Block B, the shoreside processor listed in Block C.

Owner Name(s) - Enter the full name(s) of the vessel or processor owner(s). If there is more than one owner, list the principal owner first; the permit will be issued to the first owner listed, with an ET AL. notation. The permit MUST be issued to the owner of the vessel or processor, not operators or lessees.
Business Mailing Address - Enter your complete PERMANENT business mailing address, including state and zip code. Your permit will be sent to this address. If you need to have to your permit sent to a temporary address, please enter your PERMANENT business address on the application and attach a note with your temporary address.
Managing Company - Enter the name of any company (other than the owner) that manages the operations of your vessel or processor.
Telephone and FAX Numbers - Enter telephone and FAX numbers used by the vessel or processor owner. It is very important that you provide a telephone number where we can contact you, or where we can leave messages for you, if questions arise concerning your application.

BLOCK E - FEDERAL FISHERIES PERMIT INFORMATION

Federal Fisheries Permits are required for all vessels conducting groundfish operations in the 3-200 mile zone off Alaska. This includes vessels fishing for groundfish, vessels processing groundfish, and support vessels assisting other groundfish vessels. "Groundfish" means pollock, Pacific cod, sablefish, Atka mackerel, any species of flatfish except Pacific halibut, rockfish, smelt, eulachon, capelin, sharks, skates, sculpins, octopus, and squid.

Fisheries - Indicate the fishery or fisheries for which you are applying. You may apply for a single fishery or both.

Vessel Operations Categories - Indicate the type of operations you conduct in the groundfish fishery. Check Support Vessel, or any combination of Catcher Vessel, Catcher/Processor, Mothership Processor Vessel, and Tender Vessel. (A vessel permitted as a Catcher Vessel, Catcher/Processor, Mothership Processor Vessel, and/or Tender Vessel may conduct all operations authorized for a Support Vessel.) These categories are defined as follows:

Catcher Vessel - A vessel that is used for catching fish and that does not process onboard. **If a catcher vessel is used by a fisherman who sells fish directly to restaurants or to another individual for use as bait or personal consumption, the fisherman is considered a processor and must complete Block F.**

Catcher/Processor - A vessel that is used for catching fish and processing that fish.

Mothership Processor Vessel - A vessel that receives and processes fish from other vessels.

Tender Vessel - A vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor, mothership processor vessel, or buying station.

Support Vessel - Any vessel that is used in support of a permitted vessel, including, but not limited to, supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment or other supplies, or transporting processed fish. This category does not include processors or Tender Vessels.

Gear Type - Groundfish Catcher Vessels and Catcher/Processors need to indicate the gear type(s) used for groundfish operations.

Catcher Vessels Only - Indicate whether the only groundfish you catch is bycatch from halibut, crab, or salmon fisheries, or whether the only groundfish you expect to target on is blackcod in the Gulf of Alaska. Your answers will not restrict you from participating in other groundfish fisheries; they will only be used to determine whether NMFS will send you a 25-page Catcher Vessel logbook, or a 50-page logbook.

BLOCK F - FEDERAL PROCESSOR PERMIT INFORMATION

All processors of fish or shellfish from Research Plan fisheries must have a Federal Processor Permit. A processor is defined as any facility or vessel that processes fish for commercial use or consumption, any person who receives fish from fishermen for commercial purposes, and fishermen who sell fish directly to restaurants, markets, or to another individual for use as bait or personal consumption.

Indicate the fishery or fisheries for which you are applying. You may apply for a single fishery or any combination.

Indicate the semi-annual period for which you are applying. You may not apply for both periods. Processors who receive permits for January 1-June 30 will receive renewal applications for permits for the second half of the year. All Research Plan fees must be paid before the next semi-annual processor permit will be issued.

BLOCK G - SIGNATURE

The owner must sign and date the application certifying that all information is true, correct, and complete to the best of the owner's knowledge and belief. The application will be considered incomplete without this signature.

LOGBOOKS

If you apply for a Federal Fisheries Permit, you will receive a logbook for each Vessel Operations Category that you check. For example, if you check Catcher Vessel and Catcher/Processor, you will receive a Catcher Vessel Daily Fishing Logbook AND a Catcher/Processor Daily Cumulative Production Logbook. There are a few exceptions:

Support Vessels do not receive logbooks.

Catcher Vessels under 5 net tons do not receive Catcher Vessel logbooks.

A Shoreside Processor logbook will also be sent with each Federal Processor Permit for groundfish issued to a shoreside processor. A Mothership logbook will be sent with each Federal Processor Permit for groundfish issued to a vessel that does not also have a Federal Fisheries Permit.

SPECIAL HANDLING OF PERMITS

Please allow at least 10 days for processing your permit. Do not wait until right before an opening to apply for your permit -- we may not be able to get it to you in time. You may fax your permit application to us at 907-586-7313, but we cannot fax your permit back to you. We cannot pay for express mailing if you do apply late. We can express mail your permit to you only if you send us an express mail envelope with the correct amount of postage prepaid. Please send the largest envelope available, approximately 12" X 18", or send express mail stamps UNATTACHED to an envelope. If the express mail envelope you send is too small or does not have enough postage attached, we will be required to send your permit and logbooks to you by regular U.S. mail. Keep in mind that we send the appropriate logbook(s) WITH Federal Fisheries Permits for groundfish and with Federal Processor Permits. See ***LOGBOOKS*** on the preceding page to determine what logbook(s) you will be sent, if any. Following is the approximate size and weight of each logbook:

	Dimensions	Weight
Catcher/Vessel logbook	9" X 12.5"	2 pounds
Catcher/Processor logbook	9" X 12.5"	3 pounds
Mothership logbook	9" X 12.5"	3 pounds
Buying Station logbook	8.5" X 11"	1.5 pounds
Shoreside Processor logbook	11" X 17"	3 pounds

OTHER FISHERIES AND LICENSES

Salmon Power Troll - State of Alaska Interim Use and Limited Entry Power Troll licenses serve as a Federal permit. If you do not currently possess either State license, a Federal permit may be issued provided that sometime during the years 1975-1977, you: a) operated a vessel in the 3-200 mile zone off Alaska; b) engaged in commercial fishing for salmon from that vessel in the 3-200 mile zone off Alaska; AND c) landed salmon caught with power troll gear. If you believe that you meet these conditions, please contact NMFS at 907-586-7225. You will be required to provide fish tickets or other landing receipts showing compliance with the above requirements.

Halibut - A Federal Processor Permit is required for anyone that processes Pacific halibut off Alaska. In addition, vessels that fish for halibut are required to have a license from the International Pacific Halibut Commission (IPHC). Questions regarding IPHC licenses should be directed to: International Pacific Halibut Commission, P.O. Box 95009, Seattle, WA 98145-2009. Phone: 206-634-1838.

Tanner Crab and King Crab - State of Alaska area registration serves as the required Federal area registration.

State of Alaska Permits - Contact the Commercial Fisheries Entry Commission at 907-789-6150 for information on State of Alaska permits and regulations.

PUBLIC REPORTING BURDEN STATEMENT

NMFS estimates that the public reporting burden will average 0.33 hour per response for completing the Federal Fisheries Permit and Federal Processor Permit application, 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 these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel), and to the Office of Management and Budget, Paperwork Reduction Project (0648-0206) Washington, DC 20503 (Attn: NOAA Desk Officer).

BILLING CODE 3510-22-C

Figure 2 to part 677—Observer Coverage Payment Receipt (Form FPP–2).

BILLING CODE 3510-22-W

NOAA-89-880

FORM FPP-2

OMB Clearance No. 0648-0280
Expiration Date: June 30, 1997

OBSERVER COVERAGE PAYMENT RECEIPT FORM

1. Observer Contractor Name

2. Name and Mailing Address of Person Who Paid For Observer Coverage.

Name

Mailing address

City State Zip Code

3. Identification of Shoreside Facility that Received Observer Coverage

Name of Facility

Federal Processor Permit Number

4. Identification of Vessel That Received Observer Coverage

Vessel Name

Federal Processor Permit Number.

5. Observer Payment Information:

Date Payment was Received ____/____/____
day month year

Total Amount Paid for Observer Coverage $ _____

Copy of Check, Money Order, or Other Form of Payment Attached? ☐ YES

6. Signature of Representative for Observer Contractor

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

Signature of Representative Date

7. Observer Information for Payment Listed in Block 5.

Name of Observer (s)	Dates of Contracted Service

Submission Information For This Form:

Observer contractors must submit the information contained on this form to NMFS within 7 days after the receipt of payment for observer coverage. Forms and the attached copy of record of payment must be mailed to the following address:

NMFS, Alaska Fisheries Science Center
Observer Program
7600 Sand Point Way N.E., Bldg. # 4
Bin C 15700
Seattle, WA 98115 - 0070
Attn: Research Plan Coordinator

For further information, contact the NMFS Observer Program Office at 206-526-4197

THIS BLOCK FOR AGENCY USE ONLY

The costs listed in this claim have been verified to the records and a credit/refund for the amount of $_____ is authorized. Funds are available for any refund disbursement.

Approving Official's Signature Date

Document Number

Accounting Codes

The Public Reporting Burden Statement for this information collection is printed on the backside of this form.

PUBLIC REPORTING BURDEN STATEMENT

NMFS estimates that the public reporting burden will average 0.16 hour per response for completing the Observer Coverage Payment Receipt Form, 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 these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel), and to the Office of Management and Budget, Paperwork Reduction Project (0648-0280), Washington, DC 20503 (Attn: NOAA Desk Officer).

[FR Doc. 94–21711 Filed 9–2–94; 8:45 am]
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federal register

Tuesday
September 6, 1994

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 71 and 93
Offshore Airspace Reconfiguration; Valparaiso, Florida Terminal Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 93

[Docket No. 26968; Amendment No. 71–24, 93–70]

RIN 2120–AF45

Offshore Airspace Reconfiguration; Valparaiso, FL Terminal Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action retains the Valparaiso, Florida Terminal Area and Special Air Traffic Rules in part 93 of the Federal Aviation Regulations (FAR); revises the Class D airspace areas for Eglin Air Force Base (AFB), the Eglin Air Force (AF) Auxiliary No. 3 Duke Field, and Hurlburt Field; revises the Crestview Class E airspace area; and deletes the Eglin Class D North-South corridor. Additionally, this action modifies the established North-South and East-West corridors associated with the Valparaiso, Florida Terminal Area and Eglin AFB in part 93 of the FAR. This action is necessary to simplify operating procedures, airspace assignment and airspace use within the Valparaiso, Florida Terminal Area.

EFFECTIVE DATE: This amendment is effective on December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. White, ATP–230, Air Traffic Rules Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The Offshore Airspace Reconfiguration Final Rule (58 FR 12128; March 2, 1993), effective December 9, 1993, replaced the Valparaiso, Florida, Terminal Area and Special Air Traffic Rules in part 93 of the FAR, with the Eglin Florida Class D airspace area. This rule also amended part 71 of the FAR to revoke the Eglin AFB, Florida and the Eglin AF Auxiliary No. 3, Duke Field, Florida Class D airspace areas; modified the Hurlburt Field, Florida Class D airspace area and the Crestview, Florida Class E airspace area; and established the Eglin, Florida Class D North-South corridor. However, by a separate rulemaking action (58 FR 63274; November 30, 1993), these two portions of the Offshore Airspace Reconfiguration Final Rule were delayed until December 8, 1994. This delay permitted the FAA and the Department of Defense (DOD) to conduct a joint micro-review of the effects of the airspace reclassification on this area.

The joint micro-review concluded that when the Eglin, Florida Class D airspace area becomes effective on December 8, 1994, the requirement for enhanced air traffic control service in the North-South and East-West corridors will lead to dramatic increases in air traffic and the Eglin Radar Control Facility (ERCF) controller workload. These increases in air traffic and controller workload will increase air traffic control delays imposed on civil and military aircraft, both in the air and on the ground.

Under the Valparaiso, Florida, Special Air Traffic Rules in part 93 of the FAR, access to the North-South corridor is limited during military operations, but access to the East-West corridor is not impeded. However, under the Eglin Class D airspace area, with the same type of military operations, access to the entire Class D airspace area (both the North-South and East-West corridors) will be limited. Accordingly, it was deemed necessary to retain the Valparaiso, Florida Terminal Area and Special Air Traffic Rules contained in part 93 of the FAR to maintain unlimited access to the East-West corridor and maintain the present level of safety for aircraft transiting the North-South and East-West corridors.

On July 1, 1994 (59 FR 34192), (Notice No. 94–23), the FAA proposed to retain the Valparaiso, Florida Terminal Area and Special Air Traffic Rules in part 93 of the FAR; revise the Class D airspace areas for Eglin AFB and Eglin AF Auxiliary No. 3 Duke Field, and Hurlburt Field; revise the Crestview Class E airspace area; and delete the Eglin Class D North-South corridor. Additionally, to enhance safety in the immediate vicinity of the Eglin AFB, the FAA proposed to move the southern boundary of the North-South corridor from its present lateral position north of Eglin AFB to a position south of Eglin AFB coincident with latitude 30°25'01" North. The existing designation of the entire North-South corridor and the center section of the East-West corridor, from surface to an unlimited altitude, was found to be excessive. Therefore, the FAA proposed to modify both the North-South corridor and the center portion of the East-West corridor to the surface up to, but not including, 18,000 feet MSL.

Excluding the center portion described above, the remainder of the East-West corridor airspace located below Restricted Areas R–2915C, R–2919B, and R–2914B extends from the surface up to but not including 8,500 feet MSL. This effectively divides the East-West corridor into a western section, a center section, and an eastern section.

This action was proposed to simplify operating procedures and the complex aeronautical charting of Eglin's airspace. Additionally, the action was proposed to further reduce the potential hazard of VFR aircraft crossing the flight paths of high speed, high performance, and often armed military aircraft transiting to/from/between Eglin's most commonly used East (R–2914A, R–2919A) and West (R–2915A, R–2915B) ranges.

Notice No. 94–23 as published, incorrectly described the Class D airspace area for Eglin AFB; and inadvertently deleted the Hurlburt Field Class D airspace area and the Crestview Class E airspace area. Therefore, on July 19, 1994 (59 FR 36730), the FAA published a supplemental notice of proposed rulemaking which corrected the Eglin AFB description, and retained/revised the Hurlburt Field Class D airspace area, and the Crestview, Florida Class E airspace area. No comments were received on these proposals.

The coordinates for this airspace docket are based on North American Datum 83. Class D and Class E airspace designations are published respectively in paragraphs 5000 and 6002 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

In addition, this action modifies the Hurlburt Field, Florida Class D airspace area by amending the area's effective hours to coincide with the associated control tower's hours of operations. This action also modifies the Crestview, Florida Class E airspace area by amending the area's effective hours to coincide with the associated Flight Service Station's (FSS) hours of operation. The intended effect of these modifications is to clarify when two-way radio communications are required and when weather observation services are provided when the associated control tower and FSS is closed. The Hurlburt, Florida, Class D airspace area and the Crestview, Florida, Class E airspace area will revert to Class G airspace when the associated control tower and FSS are not in operation.

The Rule

This action retains the Valparaiso, Florida Terminal Area and Special Air Traffic Rules in part 93 of the FAR. Further, this action: (1) revises the Class

D airspace areas for Eglin AFB, and the Eglin AF Auxiliary No. 3 Duke Field, and Hurlburt Field, Florida; (2) revises the Crestview, Florida Class E airspace area; and (3) deletes the Eglin, Florida Class D North-South corridor.

Additionally, this final rule revises the North-South corridor airspace area described in part 93 of the FAR, by reestablishing the vertical limits of that corridor from the surface up to, but not including 18,000 feet MSL and by moving the southern boundary from its present lateral position north of Eglin AFB to a position south of Eglin AFB coincident with latitude 30°25'01" North. This action also modifies the center portion of the East-West corridor to include airspace from the surface up to but not including 18,000 ft MSL. This effectively divides the East-West corridor into the following three sections:

(1) The west section which includes that East-West corridor airspace area underlying Restricted Area R–2915C and extending upward from the surface to, but not including, 8,500 feet MSL.

(2) The center section which includes that East-West corridor airspace area that does not underlie any of the restricted areas associated with Eglin AFB and extends upward from the surface to, but not including 18,000 feet MSL.

(3) The east section which includes that East-West corridor airspace area underlying Restricted Areas R–2919B and R–2914B extending from the surface up to, but not including, 8,500 ft MSL.

In addition, this action modifies the Hurlburt Field, Florida Class D airspace area by amending the area's effective hours to coincide with the associated control tower's hours of operations. This action also modifies the Crestview, Florida Class E airspace area by amending the area's effective hours to coincide with the associated Flight Service Station's (FSS) hours of operation. The intended effect of these modifications is to clarify when two-way radio communications are required and when weather observation services are provided when the associated control tower and FSS is closed. The Hurlburt, Florida, Class D airspace area and the Crestview, Florida, Class E airspace area will revert to Class G airspace when the associated control tower and FSS are not in operation.

Economic Evaluation

Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) will generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses are summarized below.

Costs

The FAA has determined that there will be little or no cost associated with implementation of the modification. This determination is based on the following reasons.

The rule will impose no additional administrative, personnel, or equipment costs on Eglin AFB or the FAA. Any additional operations workload generated by the rule will be absorbed by current personnel and equipment resources.

The cost to aircraft operators will be occasional delays and deviations from their current flight times and paths. However, the FAA contends that these delays will be so short and infrequent that they will impose little if any cost.

Benefits

The benefits of the rule will be primarily in the form of improved ATC efficiency and enhanced safety. Improved ATC efficiency and safety will come from the ability of Eglin ATC to better separate the flow of military and civilian aircraft.

Conclusion

In view of the little or no cost of compliance versus enhancements to aviation safety and efficiency, the FAA has determined that the rule will be cost-beneficial.

International Trade Impact Statement

This rule will not constitute a barrier to international trade, including the export of American goods and services to foreign countries and the import of foreign goods and services into the United States. This assessment is based on the fact that the rule will impose little or no costs on aircraft operators or aircraft manufacturers (U.S. or foreign).

Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the fact that the rule will impose little or no cost on small entities.

Federalism Implications

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

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with the U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Practices (SARP) to the maximum extent practicable. The FAA has determined that this rule will not present any differences.

Paperwork Reduction Act

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

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a "significant regulatory action" under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is not considered significant under DOT order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. This rule is cost effective as evidenced by the cost/benefits review statement, included in this Final Rule.

List of Subjects

14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

14 CFR Part 93

Air traffic control, Airports, Alaska, Federal Aviation Administration, Navigation (air), Penalties, Reporting and recordkeeping requirements.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 71 and 93 of the Federal Aviation Regulations (14 CFR parts 71 and 93) as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR part 71.1, of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

ASO FL D Eglin AF Aux No. 3 Duke Field, FL [Revised]

Eglin AF Aux No. 3 Duke Field, FL
(lat. 30°39'07" N, long. 86°31'23" W)
Bob Sikes Airport
(lat. 30°46'44" N, long. 86°31'20" W)
Eglin AFB
(lat. 30°29'13" N, long. 86°31'34" W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Eglin AF Aux No. 3 Duke Field; excluding the portion north of a line connecting the 2 points of intersection with a 4.2-mile radius circle centered on Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection with a 5.5-mile radius circle centered on Eglin AFB. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO FL D Eglin AFB, FL [Revised]

Eglin AFB, FL
(lat. 30°29'13" N, long. 86°31'34" W)
Destin-Fort Walton Beach Airport
(lat. 30°24'01" N, long. 86°28'18" W)
Duke Field
(lat. 30°39'07" N, long. 86°31'23" W)
Hurlburt Field
(lat. 30°25'44" N, long. 86°41'20" W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.5-mile radius of Eglin AFB and within a 4-mile radius of Destin-Fort Walton Beach Airport; excluding the portion north of a line connecting the 2 points of intersection within a 5.2-mile radius circle centered on Duke Field; excluding the portion southwest of a line connecting the 2 points of intersection within a 5.3-mile radius of Hurlburt Field; excluding a portion east of a line beginning at lat. 30°30'43" N, long. 86°26'21" W, extending north to the 5.5-mile radius and north of a line beginning at lat. 30°30'43" N, long. 86°26'21" W, extending east to the 5.5-mile radius.

* * * * *

ASO FL D Eglin Hurlburt Field, FL [Revised]

Eglin, Hurlburt Field, FL
(lat. 30°25'44" N, long. 86°41'20" W)
Eglin AFB
(lat. 30°29'13" N, long. 86°31'34" W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.3-mile radius of Hurlburt Field; excluding the portion northeast of a line connecting the 2 points of intersection with a 5.5-mile radius circle centered on Eglin AFB. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/ Facility Directory.

* * * * *

ASO FL D Eglin, FL North-South Corridor [Removed]

* * * * *

Paragraph 6002—Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO FL E2 Crestview, FL [Revised]

Crestview, Bob Sikes Airport, FL
(lat. 30°46'44" N, long. 86°31'20" W)
Duke Field
(lat. 30°39'07" N, long. 86°31'23" W)

Within a 4.2-mile radius of Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection with a 5.2-mile radius circle centered on Duke Field. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/ Facility Directory.

* * * * *

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for Part 93 continues to read as follows:

Authority: 49 U.S.C. app. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 et seq. 49 U.S.C. 106(g).

2. Subpart F is amended by revising §§ 93.81 and 93.83 to read as follows:

§ 93.81 Applicability and description of area.

(a) This subpart prescribes the Valparaiso, Florida Terminal Area, and the special air traffic rules for operating aircraft within that Area.

(b) The Valparaiso, Florida Terminal Area is designated as follows:

(1) North-South Corridor. The North-South Corridor includes the airspace extending upward from the surface up to, but not including, 18,000 feet MSL, bounded by a line beginning at:

Latitude 30°42'51" N., Longitude 86°38'02" W.; to
Latitude 30°43'18" N., Longitude 86°27'37" W.; to
Latitude 30°37'01" N., Longitude 86°27'37" W.; to
Latitude 30°37'01" N., Longitude 86°25'30" W.; to
Latitude 30°33'01" N., Longitude 86°25'30" W.; to
Latitude 30°33'01" N., Longitude 86°25'00" W.; to
Latitude 30°25'01" N., Longitude 86°25'00" W.; to
Latitude 30°25'01" N., Longitude 86°38'12" W.; to
Latitude 30°29'02" N., Longitude 86°38'02" W.; to point of beginning.

(2) East-West Corridor—The East-West Corridor is divided into three sections to accommodate the different altitudes as portions of the corridor underlie restricted areas R–2915C, R–2919B, and R–2914B.

(i) The west section would include that airspace extending upward from the surface to but not including 8,500 feet MSL, bounded by a line beginning at: Latitude 30°22'47" N., Longitude 86°51'30" W.: then along the shoreline to Latitude 30°23'46" N., Longitude 86°38'15" W.; to Latitude 30°20'51" N., Longitude 86°38'50" W.; then 3 NM from and parallel to the shoreline to Latitude 30°19'31" N., Longitude 86°51'30" W.; to the beginning.

(ii) The center section would include that airspace extending upward from the surface to but not including 18,000 feet MSL, bounded by a line beginning at:

Latitude 30°25'01" N., Longitude 86°38'12" W.; to
Latitude 30°25'01" N., Longitude 86°25'00" W.; to
Latitude 30°25'01" N., Longitude 86°22'26" W.; to
Latitude 30°19'46" N., Longitude 86°23'45" W.; then 3 NM from and parallel to the shoreline to Latitude 30°20'51" N., Longitude 86°38'50" W.; to Latitude 30°23'46" N., Longitude 86°38'15" W.; to the beginning.

(iii) The east section would include that airspace extending upward from the surface to but not including 8,500 feet MSL, bounded by a line beginning at:

Latitude 30°25'01" N., Longitude 86°22'26" W.; to
Latitude 30°22'01" N., Longitude 86°08'00" W.; to
Latitude 30°19'16" N., Longitude 85°56'00" W.; to
Latitude 30°11'01" N., Longitude 85°56'00" W.; then 3 NM from and parallel to the shoreline to Latitude 30°19'46" N., Longitude 86°23'45" W.; to the beginning.

§ 93.83 Aircraft Operations.

(a) North-South Corridor. Unless otherwise authorized by ATC (including the Eglin Radar Control Facility), no person may operate an aircraft in flight within the North-South Corridor designated in § 93.81(b)(1) unless—

(1) Before operating within the corridor, that person obtains a clearance from the Eglin Radar Control Facility or an appropriate FAA ATC facility; and

(2) That person maintains two-way radio communication with the Eglin Radar Control Facility or an appropriate FAA ATC facility while within the corridor.

(b) East-West Corridor. Unless otherwise authorized by ATC (including the Eglin Radar Control Facility), no person may operate an aircraft in flight within the East-West Corridor designated in § 93.81(b)(2) unless—

(1) Before operating within the corridor, that person establishes two-way radio communications with Eglin Radar Control Facility or an appropriate FAA ATC facility and receives an ATC advisory concerning operations being conducted therein; and

(2) That person maintains two-way radio communications with the Eglin Radar Control Facility or an appropriate FAA ATC facility while within the corridor.

Issued in Washington, D.C., on August 25, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–21843 Filed 9–2–94; 8:45 am]

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Reader Aids

Federal Register

Vol. 59, No. 171

Tuesday, September 6, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

45183–45616.....1
45617–45970.....2
45971–46156.....6

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
July 2, 1910 (Revoked in part by PLO 7079).....45234

7 CFR

457.....45971
916.....45183
917.....45183
920.....45617
922.....45184
928.....45186
944.....45617
947.....45187
955.....45188

Proposed Rules:
906.....45241
928.....45630
1767.....45631

9 CFR

317.....45189
381.....45189

10 CFR

Proposed Rules:
2.....46002

12 CFR

611.....45972
618.....45972
620.....45972

Proposed Rules:
3.....45243

13 CFR

121.....45620

14 CFR

71.....45198, 45199, 45200, 45972, 46152
93.....46152

Proposed Rules:
1.....46004
39...45249, 46004, 46005, 46007

19 CFR

Proposed Rules:
103.....46007

20 CFR

626.....45760
627.....45760
628.....45760
629.....45760
630.....45760
631.....45760
637.....45760

21 CFR

178.....45972
558.....45973
573.....45973

22 CFR

123.....45621
124.....45621

26 CFR

1.....45623

28 CFR

2.....45624

29 CFR

Proposed Rules:
1926.....46012

30 CFR

917.....45201
935.....45206

Proposed Rules:
906.....45250
917.....46013

32 CFR

516.....45974
552.....45212
776.....45213

33 CFR

20.....45757
165.....45227
402.....45228

Proposed Rules:
117.....45252

34 CFR

Proposed Rules:
645.....45964

36 CFR

242.....45924

37 CFR

1.....45757

38 CFR

3.....45975

Proposed Rules:
8.....45254
21.....45644

39 CFR

491.....45625

Proposed Rules:
111.....45652

40 CFR

52.....45230, 45231, 45233, 45976, 45978, 45980, 45985
81.....45978, 45980, 45985

85.....45626
172.....45600
272.....45986
300.....45628
799.....45629

Proposed Rules:
52.....45653, 46015, 46019
81.....46019
700.....45526
720.....45526
721.....45526
723.....45526
725.....45526
745.....45872

42 CFR
412.....45330
413.....45330
466.....45330
482.....45330
485.....45330
489.....45330

43 CFR

Public Land Orders:
7079.....45234
7080.....45234
7081.....45987

47 CFR
90.....45988

48 CFR

Proposed Rules:
10.....46019
13.....46021
22.....46020
45.....45657
52.....45657, 46019, 46020
5552.....46022

50 CFR
17.....45989
204.....46126
20.....45235, 45588
301.....46126
663.....46126
671.....46126
672.....45239, 46126
675.....46126
676.....46126
677.....46126

Proposed Rules:
17.....45254, 45659, 46022
23.....46023
100.....45924
405.....45255
424.....45661

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 30, 1994

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–022–00003–9)	5.50	Jan. 1, 1994
5 Parts:			
1–699	(869–022–00004–7)	22.00	Jan. 1, 1994
700–1199	(869–022–00005–5)	19.00	Jan. 1, 1994
1200–End, 6 (6 Reserved)	(869–022–00006–3)	23.00	Jan. 1, 1994
7 Parts:			
0–26	(869–022–00007–1)	21.00	Jan. 1, 1994
27–45	(869–022–00008–0)	14.00	Jan. 1, 1994
46–51	(869–022–00009–8)	20.00	[6] Jan. 1, 1993
52	(869–022–00010–1)	30.00	Jan. 1, 1994
53–209	(869–022–00011–0)	23.00	Jan. 1, 1994
210–299	(869–022–00012–8)	32.00	Jan. 1, 1994
300–399	(869–022–00013–6)	16.00	Jan. 1, 1994
400–699	(869–022–00014–4)	18.00	Jan. 1, 1994
700–899	(869–022–00015–2)	22.00	Jan. 1, 1994
900–999	(869–022–00016–1)	34.00	Jan. 1, 1994
1000–1059	(869–022–00017–9)	23.00	Jan. 1, 1994
1060–1119	(869–022–00018–7)	15.00	Jan. 1, 1994
1120–1199	(869–022–00019–5	12.00	Jan. 1, 1994
1200–1499	(869–022–00020–9)	30.00	Jan. 1, 1994
1500–1899	(869–022–00021–7)	30.00	Jan. 1, 1994
1900–1939	(869–022–00022–5)	15.00	Jan. 1, 1994
1940–1949	(869–022–00023–3)	30.00	Jan. 1, 1994
1950–1999	(869–022–00024–1)	35.00	Jan. 1, 1994
2000–End	(869–022–00025–0)	14.00	Jan. 1, 1994
8	(869–022–00026–8)	22.00	Jan. 1, 1994
9 Parts:			
1–199	(869–022–00027–6)	29.00	Jan. 1, 1994
200–End	(869–022–00028–4)	23.00	Jan. 1, 1994
10 Parts:			
0–50	(869–022–00029–2)	29.00	Jan. 1, 1994
51–199	(869–022–00030–6)	22.00	Jan. 1, 1994
200–399	(869–022–00031–4)	15.00	[6] Jan. 1, 1993
400–499	(869–022–00032–2)	21.00	Jan. 1, 1994
500–End	(869–022–00033–1)	37.00	Jan. 1, 1994
11	(869–022–00034–9)	14.00	Jan. 1, 1994
12 Parts:			
1–199	(869–022–00035–7)	12.00	Jan. 1, 1994
200–219	(869–022–00036–5)	16.00	Jan. 1, 1994
220–299	(869–022–00037–3)	28.00	Jan. 1, 1994
300–499	(869–022–00038–1)	22.00	Jan. 1, 1994
500–599	(869–022–00039–0)	20.00	Jan. 1, 1994
600–End	(869–022–00040–3)	32.00	Jan. 1, 1994
13	(869–022–00041–1)	30.00	Jan. 1, 1994
14 Parts:			
1–59	(869–022–00042–0)	32.00	Jan. 1, 1994
60–139	(869–022–00043–8)	26.00	Jan. 1, 1994
140–199	(869–022–00044–6)	13.00	Jan. 1, 1994
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1200–End	(869–022–00046–2)	16.00	Jan. 1, 1994
15 Parts:			
0–299	(869–022–00047–1)	15.00	Jan. 1, 1994
300–799	(869–022–00048–4)	26.00	Jan. 1, 1994
800–End	(869–022–00049–7)	23.00	Jan. 1, 1994
16 Parts:			
0–149	(869–022–00050–1)	6.50	Jan. 1, 1994
150–999	(869–022–00051–9)	18.00	Jan. 1, 1994
1000–End	(869–022–00052–7)	25.00	Jan. 1, 1994
17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
*200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–019–00077–1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
*§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441–1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
30–39	(869–022–00097–7)	18.00	Apr. 1, 1994
40–49	(869–022–00098–4)	14.00	Apr. 1, 1994
50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600-End	(869-022-00102-7)	8.00	Apr. 1, 1994
27 Parts:			
1-199	(869-022-00103-5)	36.00	Apr. 1, 1994
200-End	(869-022-00104-3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869-019-00105-1)	27.00	July 1, 1993
43-end	(869-019-00106-9)	21.00	July 1, 1993
29 Parts:			
*0-99	(869-022-00107-8)	21.00	July 1, 1994
100-499	(869-019-00108-5)	9.50	July 1, 1993
500-899	(869-019-00109-3)	36.00	July 1, 1993
900-1899	(869-019-00110-7)	17.00	July 1, 1993
1900-1910 (§§ 1901.1 to 1910.999)	(869-019-00111-5)	31.00	July 1, 1993
1910 (§§ 1910.1000 to end)	(869-019-00112-3)	21.00	July 1, 1993
1911-1925	(869-019-00113-1)	22.00	July 1, 1993
1926	(869-019-00114-0)	33.00	July 1, 1993
1927-End	(869-019-00115-8)	36.00	July 1, 1993
30 Parts:			
1-199	(869-019-00116-6)	27.00	July 1, 1993
200-699	(869-019-00117-4)	20.00	July 1, 1993
700-End	(869-019-00118-2)	27.00	July 1, 1993
31 Parts:			
0-199	(869-019-00119-1)	18.00	July 1, 1993
200-End	(869-019-00120-4)	29.00	July 1, 1993
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-019-00121-2)	30.00	July 1, 1993
191-399	(869-019-00122-1)	36.00	July 1, 1993
*400-629	(869-022-00123-0)	26.00	July 1, 1994
630-699	(869-022-00124-8)	14.00	[5] July 1, 1991
700-799	(869-019-00125-5)	21.00	July 1, 1993
800-End	(869-019-00126-3)	22.00	July 1, 1993
33 Parts:			
1-124	(869-019-00127-1)	20.00	July 1, 1993
125-199	(869-019-00128-0)	25.00	July 1, 1993
*200-End	(869-022-00129-9)	24.00	July 1, 1994
34 Parts:			
1-299	(869-019-00130-1)	27.00	July 1, 1993
300-399	(869-019-00131-0)	20.00	July 1, 1993
400-End	(869-019-00132-8)	37.00	July 1, 1993
35	(869-019-00133-6)	12.00	July 1, 1993
36 Parts:			
1-199	(869-019-00134-4)	16.00	July 1, 1993
200-End	(869-019-00135-2)	35.00	July 1, 1993
37	(869-019-00136-1)	20.00	July 1, 1993
38 Parts:			
0-17	(869-019-00137-9)	31.00	July 1, 1993
18-End	(869-019-00138-7)	30.00	July 1, 1993
39	(869-019-00139-5)	17.00	July 1, 1993
40 Parts:			
1-51	(869-019-00140-9)	39.00	July 1, 1993
52	(869-019-00141-7)	37.00	July 1, 1993
53-59	(869-019-00142-5)	11.00	July 1, 1993
60	(869-019-00143-3)	35.00	July 1, 1993
61-80	(869-019-00144-1)	29.00	July 1, 1993
81-85	(869-019-00145-0)	21.00	July 1, 1993
86-99	(869-019-00146-8)	39.00	July 1, 1993
100-149	(869-019-00147-6)	36.00	July 1, 1993
150-189	(869-019-00148-4)	24.00	July 1, 1993
190-259	(869-019-00149-2)	17.00	July 1, 1993
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790-End	(869-019-00155-7)	26.00	July 1, 1993
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
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19-100		13.00	[3] July 1, 1984
1-100	(869-019-00156-5)	10.00	July 1, 1993
101	(869-019-00157-3)	30.00	July 1, 1993
102-200	(869-019-00158-1)	11.00	[5] July 1, 1991
201-End	(869-019-00159-0)	12.00	July 1, 1993
42 Parts:			
1-399	(869-019-00160-3)	24.00	Oct. 1, 1993
400-429	(869-019-00161-1)	25.00	Oct. 1, 1993
430-End	(869-019-00162-0)	36.00	Oct. 1, 1993
43 Parts:			
1-999	(869-019-00163-8)	23.00	Oct. 1, 1993
1000-3999	(869-019-00164-6)	32.00	Oct. 1, 1993
4000-End	(869-019-00165-4)	14.00	Oct. 1, 1993
44	(869-019-00166-2)	27.00	Oct. 1, 1993
45 Parts:			
1-199	(869-019-00167-1)	22.00	Oct. 1, 1993
200-499	(869-019-00168-9)	15.00	Oct. 1, 1993
500-1199	(869-019-00169-7)	30.00	Oct. 1, 1993
1200-End	(869-019-00170-1)	22.00	Oct. 1, 1993
46 Parts:			
1-40	(869-019-00171-9)	18.00	Oct. 1, 1993
41-69	(869-019-00172-7)	16.00	Oct. 1, 1993
70-89	(869-019-00173-5)	8.50	Oct. 1, 1993
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140-155	(869-019-00175-1)	12.00	Oct. 1, 1993
156-165	(869-019-00176-0)	17.00	Oct. 1, 1993
166-199	(869-019-00177-8)	17.00	Oct. 1, 1993
200-499	(869-019-00178-6)	20.00	Oct. 1, 1993
500-End	(869-019-00179-4)	15.00	Oct. 1, 1993
47 Parts:			
0-19	(869-019-00180-8)	24.00	Oct. 1, 1993
20-39	(869-019-00181-6)	24.00	Oct. 1, 1993
40-69	(869-019-00182-4)	14.00	Oct. 1, 1993
70-79	(869-019-00183-2)	23.00	Oct. 1, 1993
80-End	(869-019-00184-1)	26.00	Oct. 1, 1993
48 Chapters:			
1 (Parts 1-51)	(869-019-00185-9)	36.00	Oct. 1, 1993
1 (Parts 52-99)	(869-019-00186-7)	23.00	Oct. 1, 1993
2 (Parts 201-251)	(869-019-00187-5)	16.00	Oct. 1, 1993
2 (Parts 252-299)	(869-019-00188-3)	12.00	Oct. 1, 1993
3-6	(869-019-00189-1)	23.00	Oct. 1, 1993
7-14	(869-019-00190-5)	31.00	Oct. 1, 1993
15-28	(869-019-00191-3)	31.00	Oct. 1, 1993
29-End	(869-019-00192-1)	17.00	Oct. 1, 1993
49 Parts:			
1-99	(869-019-00193-0)	23.00	Oct. 1, 1993
100-177	(869-019-00194-8)	30.00	Oct. 1, 1993
178-199	(869-019-00195-6)	20.00	Oct. 1, 1993
200-399	(869-019-00196-4)	27.00	Oct. 1, 1993
400-999	(869-019-00197-2)	33.00	Oct. 1, 1993
1000-1199	(869-019-00198-1)	18.00	Oct. 1, 1993
1200-End	(869-019-00199-9)	22.00	Oct. 1, 1993
50 Parts:			
1-199	(869-019-00200-6)	20.00	Oct. 1, 1993
200-599	(869-019-00201-4)	21.00	Oct. 1, 1993
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

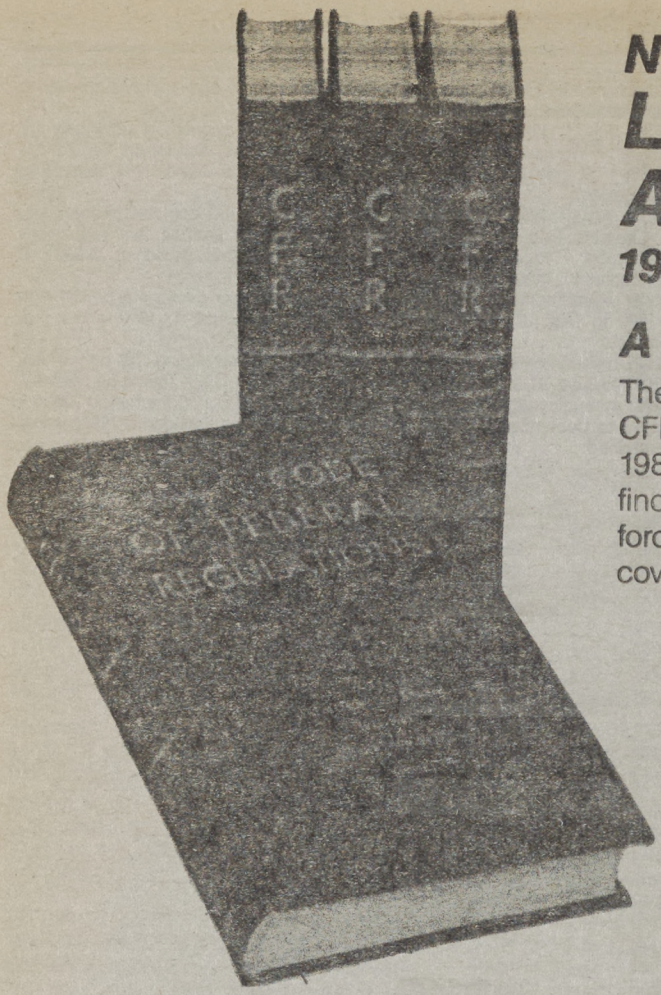
[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued January 1, 1993, should be retained.



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