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Title 3—

The President

Proclamation 6728 of September 30, 1994

Child Health Day, 1994

By the President of the United States of America

A Proclamation

It has been said that "(i)n every child who is born . . . the potentiality of the whole human race is born again." Since James Agee wrote those words in 1941, generations of children have been born into our world, each individual holding as much promise and potential as the children of ages past. In recent decades, children have grown up to see the human race produce a vaccine for polio and pull back from the precipice of nuclear war. Indeed, in many ways, the world is a much safer place for all of us. It would seem that today's children would have a better chance than ever to fulfill the tremendous potential of humanity.

Yet as we celebrate Child Health Day this year, our young people face challenges to their well-being that their grandparents and great-grandparents could scarcely have imagined. In virtually every school and community, drugs and guns threaten our youths' safety, and gangs have become the closest thing to family that many young people will ever know. Girls too young to be mothers are struggling to meet the demands of parenthood, and many boys, too young to be fathers are turning from the profound responsibilities they should shoulder. Among the primary health risks confronting our young people, homicide and suicide have become the leading causes of death.

If our Nation is to succeed in the years to come, we must take new responsibility for the lives of our children, from promoting proper nutrition and basic health and safety to raising awareness of the terrible dangers of substance abuse, teen pregnancy, and AIDS. Already, we have made important progress in those efforts. We have enacted legislation that expands and improves the Head Start program, providing health, education, and social services for children of low-income families. My Childhood Immunization Initiative will help to vaccinate at least 90 percent of our Nation's infants—the most sweeping effort of its kind in American history. Our new crime bill supports programs that encourage youth to develop a sense of self-worth apart from gangs, and it goes a long way toward keeping guns out of the hands of juveniles. Already, we are saving children's lives.

But for all that we have accomplished in the past year, much remains to be done. We must forge active partnerships among health, child development, education, and social services organizations. We must involve parents and siblings, schools and communities in protecting our youth. Every child needs and deserves our concern and respect, and these begin with personal involvement. Children need love, tempered by discipline. They need the freedom to dream, tempered by the knowledge of hard work. They need someone who will lift them up when they fall, who will care for their bruises and scrapes, who will kiss their tears away when they falter and applaud them when they succeed. Only we can do these things. And it is only in reaching out to children that we may discover the true potential within ourselves.

The Congress, by joint resolution approved May 18, 1928, as amended (36 U.S.C. 143), has called for the designation of the first Monday in October as "Child Health Day" and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Monday, October 3, 1994, as Child Health Day. I call upon all Americans to rededicate themselves to ensuring that every generation of children enjoys bright and healthy futures.

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

William J. Clinton

[FR Doc. 94–24816
Filed 10–3–94; 1:42 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6729 of September 30, 1994

National Disability Employment Awareness Month, 1994

By the President of the United States of America

A Proclamation

Like every civil rights law in our Nation's history, the Americans with Disabilities Act of 1990 (ADA) is about potential. We see that potential reflected every day in the faces of America—from the AmeriCorps volunteers of Gallaudet University to the athletes taking part in this year's trials for the Special Olympics World Games. In myriad ways, our citizens continually prove the proposition on which our Nation was founded: that empowered by the freedom to dream, to work, and to succeed, every one of us can accomplish great things.

As we commemorate National Disability Employment Awareness Month, 1994, employers across the country are recognizing that in the hiring of people with disabilities, basic fairness and economic good sense are one and the same. Prohibiting discrimination in employment, public accommodation, government services, transportation, and communications, the ADA holds up a model and an important challenge to businesses at home and around the world. In this country, the 49 million Americans with disabilities represent one of our largest untapped resources—a resource upon which we must rely if we are to succeed in an increasingly competitive international marketplace. Their knowledge and skill, their energy and creativity are essential in building a work force that will carry our economy into the next century.

This year, we celebrate as the ADA provisions for fair employment practices go into effect for small businesses throughout the land. These provisions are designed to open a vast new world of opportunity to American workers and employers, and our Nation stands committed to fully implement and to aggressively enforce the ADA in our schools and workplaces, in government and in public facilities. With this measure, our citizens will enjoy more avenues to freedom than ever. Indeed, it is past time to free all of our people to dream, to work, to succeed, and finally to fulfill the vast potential that is America.

The Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of October of each year as "National Disability Employment Awareness Month." This month is a time for all Americans to recognize the tremendous potential of citizens with disabilities and to renew our commitment to full inclusion and equal opportunity for all.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 1994 as National Disability Employment Awareness Month. I call upon all Americans to observe this month with appropriate programs and activities that affirm our determination to fulfill both the letter and the spirit of the Americans with Disabilities Act and related laws.

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

William J. Clinton

[FR Doc. 94–24807
Filed 10–3–94; 1:27 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6730 of September 30, 1994

Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate or Implement Policies That Are Impeding the Transition to Democracy in Liberia or Who Benefit From Such Policies

By the President of the United States of America

A Proclamation

In light of the long-standing political and humanitarian crisis in Liberia, I have determined that it is in the interests of the United States to restrict the entrance into the United States as immigrants and nonimmigrants of certain Liberian nationals who formulate or implement policies that impede Liberia's transition to democracy or who benefit from such policies, and the immediate families of such persons.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the power vested in me as President by the Constitution and the laws of the United States of America, including section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 or 3 of this proclamation, be detrimental to the interests of the United States. I hereby proclaim that:

Section 1. The entry into the United States as immigrants and nonimmigrants of persons who formulate or implement policies that impede Liberia's transition to democracy or who benefit from such policies, and the immediate family members of such persons, is hereby suspended.

Sec. 2. Section 1 shall not apply with respect to any person otherwise covered by section 1 where entry of such person would not be contrary to the interests of the United States.

Sec. 3. Persons covered by sections 1 and 2 shall be identified pursuant to procedures established by the Secretary of State, as authorized in section 5 below.

Sec. 4. Nothing in this proclamation shall be construed to derogate from United States Government obligations under applicable international agreements.

Sec. 5. The Secretary of State shall have responsibility to implement this proclamation pursuant to procedures the Secretary may establish.

Sec. 6. This proclamation is effective immediately and shall remain in effect until such time as the Secretary of State determines that it is no longer necessary and should be terminated.

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

William J. Clinton

[FR Doc. 94–24833
Filed 10–3–94; 3:01 pm]
Billing code 3195–01–P

Presidential Documents

Memorandum of September 27, 1994

Delegation of Authorities Under the Iran-Iraq Arms Non-Proliferation Act of 1992

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Sections 1602–1608 of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Title XVI of Public Law 102–484) (the "Act") and Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State ("Secretary") all functions vested in me by the Act without limitation of the authority of other officials to exercise powers heretofore or hereafter delegated to them to implement sanctions imposed or actions directed by the Secretary pursuant to this delegation of authority.

In exercising these functions, the Secretary shall consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and the heads of other departments and agencies as appropriate.

This delegation of authority shall also apply to any amendments or successor legislation to the Act.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, September 27, 1994.

[FR Doc. 94–24845
Filed 10–3–94; 4:08 pm]
Billing code 4710–10–M

Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 846

RIN: 3206–AE01

Deemed Elections of Coverage Under the Federal Employees Retirement System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting, as final, its interim regulations to allow employees to remain covered by the Federal Employees Retirement System (FERS), if their employing agency erroneously placed them under FERS during the period when they would have had the opportunity to elect FERS coverage. These regulations deem employees to have elected FERS coverage unless they notify the employing agency that they do not want to be deemed to have elected FERS. These regulations are necessary to prevent the agency error from depriving such employees of their statutory right to have elected FERS coverage.

EFFECTIVE DATE: November 4, 1994.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegleman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On September 13, 1993, we published (at 58 FR 47821) interim regulations to allow employees to remain covered by the Federal Employees Retirement System (FERS), if their employing agency erroneously placed them under FERS during the period when they would have had the opportunity to elect FERS coverage. The interim regulations establish a procedure under which employees (who were denied the opportunity to elect FERS coverage because their employing agency erroneously placed them under FERS) would be deemed to have elected FERS coverage unless they notify the employing agency that they do not want to be deemed to have elected FERS. We designed the procedure to minimize the actions that both an agency and an employee would be required to perform to correct records. We received four comments on the interim regulations.

All of the comments were supportive of the concept of allowing this group of employees the opportunity to have FERS coverage. The commenters expressed their concerns with specific aspects of our interim method for choosing FERS coverage.

One commenter expressed concern that our proposal was too narrow because it failed to cover employees who were correctly placed under full CSRS, CSRS offset, or social security only, but were incorrectly or never informed of their opportunity to elect FERS. We believe that the decision of the United States Court of Appeals for the Federal Circuit in *Killip* v. *Office of Personnel Management*, 991 F.2d 1564 (Fed. Cir. 1993), leaves us without authority to permit coverage elections except for the situation of employees who were incorrectly denied any right of election whatsoever during the election period provided by statute. Specifically, the court determined that OPM did not have authority to allow retroactive belated FERS elections made after June 30, 1988, on the basis that the employing agency provided incomplete information to the employee, or that the employee was otherwise prevented form making an informed election by circumstances beyond the employee's control.

Although the court decision technically applies only to elections that should have been made during the 1987 open season, the court's analysis is equally applicable to cases of employees rehired after the open season. We believe that the court decision prevents us from allowing retroactive transfers by any employees who did have an opportunity to make an election, regardless of circumstances that may have prevented the employee from making an informed election. Accordingly, we could not adopt this suggestion.

Three commenters requested that we provide more information about the procedures that agencies will be expected to follow when implementing the regulations. We will provide agencies with instructions on documenting elections and correction of records under these regulations in the usual manner, through a payroll office letter.

Three commenters objected to the interim procedure that deems the employee to have elected FERS coverage unless the employee informs the agency of the desire not to be covered by FERS. Each objected for different reasons.

The interim procedures were based on the premise that most employees who have been automatically covered by FERS in error will want to continue to be covered under FERS. One commenter questioned this premise. However, our experience in handling belated FERS election requests causes us to believe this premise is correct. We continue to believe that this procedure will cause the maximum number of employees to have the retirement coverage they want without having to elect out of FERS.

One commenter suggested that we require an affirmative FERS election to obviate the need for agencies to develop procedures for handling requests to waive the time limit. The commenter also suggested that the "open-ended nature of the passive election almost guarantees that there will be waiver requests and that agencies will feel obligated to grant them," resulting in longer periods for which the records will have to be corrected. The commenter states, "The agency will also sustain additional losses in contributions to the Thrift Savings Plan. (Agencies forfeit automatic and matching contributions that are more than one year old.)" While these problems will occur, we believe that requiring an affirmative FERS election, which, under *Killip*, would also require an inflexible time limit, would not be sufficiently responsive to the needs of the employee who has already been placed in a difficult situation because of an agency error. Agencies can avoid problems concerning waiver of the time limit by providing adequate counseling and follow-up procedures to assure that employees make informed choices during the 60-day period.

Although the regulatory procedures deem employees to have elected FERS if the employee takes no action, we strongly encourage agencies to follow-up all cases involving these regulations and to obtain and document express

(and written) elections whenever possible. We expect agencies to approve waivers of the time limit in which to decline the deemed election unless they can document that the employee did not act with reasonable diligence or that the employee made an informed choice of FERS. Because of the adverse consequence for agencies that the commenter noted, agencies should develop procedures to fully document their counseling efforts and employee elections.

One commenter questioned the provisions concerning the rights of survivors. The regulations provide a special rule if an employee dies during the election period. Because the employee's election period ended prematurely due to death, the benefits payable to the survivor (either FERS or the benefits available in the absence of a deemed election) depend on whether the deemed election is forced upon the survivor. Because of the unique situation created by a deemed election, the regulations allow a survivor to decline the deemed election. In this way, we are assuring that the deemed election will not deprive a survivor of benefits established by statute, while providing what the employee and survivor would be anticipating (benefits under FERS) unless the survivor chooses otherwise.

One commenter raised questions concerning eligibility of an employee to be deemed to have elected FERS when a former spouse is entitled to a portion of the employee annuity or a survivor annuity. Deemed elections are permitted only for employees who were eligible to elect FERS during the election period. Agencies will have to confirm eligibility by obtaining a certification from the employee concerning former spouses, similar to the certification required on the SF 3109, Election of FERS Coverage, or by obtaining telephone approval from our Court-Ordered Benefits Section.

Two commenters specifically raised questions about the effective date of the deemed elections. The effective date is the later of the employee's entry-on-duty date or the beginning of the first pay period commencing after June 30, 1987. In devising the interim procedure we wanted to minimize the correction of records. If as we expect most employees affected by these regulations will want FERS coverage, records correction will be minimal. The only correction action required in cases of employees whose entry-on-duty date is on or after the beginning of the first pay period in July 1987, will be an SF–50 showing that FERS coverage, as of the entry-on-duty date was by election, rather than automatic. Of course, if the employee was erroneously placed in FERS before the beginning of the first pay period of July 1987 or if the employee elects not to be covered by FERS, more substantial records corrections will be required. We will issue a payroll office letter to provide more details on correction of records.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 846

Administrative practice and procedure, Government employees, Pensions, Retirement.

Accordingly, under authority of 5 U.S.C. 8461(g), OPM is adopting its interim rules under 5 CFR part 846 published on September 13, 1993, at 58 FR 47821, as final rules without change.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–24454 Filed 10–4–94; 8:45 am]

BILLING CODE 6325–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 34, 35, 50, 73, and 110

RIN 3150–AF19

NRC Library; Address Change

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations regarding the availability of material approved for incorporation by reference to make a needed change to the address provided for the NRC Library.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415–7163.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission is revising those portions of 10 CFR chapter I that reference the availability of materials that have been approved by the Director of the Office of the Federal Register for incorporation by reference. This amendment revises the text of 10 CFR chapter I to indicate the current location where this material is available for inspection. The material that has been approved for incorporation by reference is maintained and available for inspection at the NRC Library, which is now located at 11545 Rockville Pike, Rockville, Maryland 20852–2738.

Because this is an amendment dealing with agency practice and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendment is effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature dealing with an address change.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0007, –0010, –0002, and –0036.

List of Subjects

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation

protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR parts 34, 35, 50, 73, and 110.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for part 34 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 34.20 [Amended]

2. In § 34.20, paragraph (a), remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

3. The authority citation for part 35 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948 as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 35.632 [Amended]

4. In § 35.632, paragraph (d), remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for part 50 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948 as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 50.34 [Amended]

6. In § 50.34, paragraph (f)(3)(v)(A)(*2*), remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

§ 50.55a [Amended]

7. In § 50.55a, paragraph (b) introductory text, remove the words "7920 Norfolk Avenue, Bethesda, Maryland, 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

§ 50.73 [Amended]

8. In § 50.73, paragraph (b)(2)(ii)(F)(*2*), remove the words "in the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland" and add the words "at 11545 Rockville Pike, Rockville, Maryland 20852–2738."

Appendix H to Part 50 [Amended]

9. In the second paragraph of the introduction to appendix H to part 50, remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

Appendix J to Part 50 [Amended]

10. In appendix J to part 50, section III, paragraph A.3.(a), remove the words "7920 Norfolk Avenue, Bethesda, Maryland," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

Appendix K to Part 50 [Amended]

11. In appendix K to part 50, section I, paragraphs A.4., C.1.b., D.5., and D.7.c., remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

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

Authority: Sec. 161, 68 Stat. 948 as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 73.26 [Amended]

13. In § 73.26, paragraph (l)(1), in the last sentence, remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

§ 73.50 [Amended]

14. In § 73.50, paragraph (d)(1), in the last sentence, remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

Appendix B to Part 73 [Amended]

15. In appendix B to part 73, section I, paragraph B.1.b.(2)(a) and section IV, paragraph C., footnote 2, remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

16. The authority citation for part 110 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948 as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 110.43 [Amended]

17. In § 110.43, paragraph (a), remove the words "7920 Norfolk Avenue, Bethesda, Maryland 20814," and add the words "11545 Rockville Pike, Rockville, Maryland 20852–2738."

Dated at Rockville, Maryland, this 26th day of September 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94–24593 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 94–77]

Customs Service Field Organization; Extension of Port Limits of Morgan City, Louisiana

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of Customs by extending the geographical limits of the port of entry of Morgan City, Louisiana. The current boundaries are being extended to include Lafayette Parish. This change is being made in order to include Lafayette Regional Airport and to complement current international trade activities at the Morgan City port of entry. This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: November 4, 1994.

FOR FURTHER INFORMATION CONTACT: Brad Lund, Office of Inspection and Control, (202) 927–0192.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), to expand the boundaries of the port of Morgan City, Louisiana. The expansion of the port will add Lafayette Parish to the existing limits which are the parishes of Iberia, Lafourche, St. Mary, and Terrebonne, the corporate limits of the town of Grand Isle, and that portion of the right-of-way pertaining to State Highway 1 extending in a northeasterly direction from the Lafourche Parish and Jefferson Parish boundary line to the corporate limits of the town of Grand Isle.

The addition of Lafayette Parish, including Lafayette Regional Airport, will complement the current international trade activities in the parishes of Iberia, Lafourche, St. Mary and Terrebonne and the town of Grand Isle. Lafayette Parish's inclusion in the international port of entry will provide a boost to the economy of southern Louisiana. It will reduce the operating costs of recipients of Customs services, thereby greatly improving prospects for international trade.

Comments

Customs published a Notice of Proposed Rulemaking in the **Federal Register** (59 FR 23817) on May 9, 1994 which invited the public to comment on this proposed change to the port limits.

Nine comments were received. All of them were in favor of the proposed expansion. Accordingly, the amendment is being published in final as it was proposed.

Revised Port Limits

The revised port limits are as follows:

In the State of Louisiana: All of the territory within the Parishes of Iberia, Lafayette, Lafourche, St. Mary, and Terrebonne; the Corporate limits of the town of Grand Isle; and that portion of the right-of-way pertaining to State Highway 1 extending in a northeasterly direction from the Lafourche Parish and Jefferson Parish boundary line to the corporate limits of the town of Grand Isle.

Regulatory Flexibility Act

Although Customs solicited public comments on this port expansion, no notice of proposed rulemaking was required because the port expansion 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.*).

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Amendment to the Regulations

Accordingly, Part 101 of the Customs Regulations is amended as set forth below:

PART 101—GENERAL PROVISIONS

1. The general authority citation for Part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 [Amended]

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended by removing the reference "T.D. 93–30" and adding in its place "T.D. 94–77", alongside "Morgan City" in the column headed "Ports of entry" in the New Orleans, Louisiana District of the South Central Region.

Dated: September 26, 1994.

Charles W. Winwood,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–24620 Filed 10–4–94; 8:45 am]

BILLING CODE 4820–02–P

POSTAL SERVICE

39 CFR Part 111

Mailing Prescription Medicines Containing Narcotic Drugs and Other Controlled Substances

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The final rule will remove a provision in the current postal regulations that restricts use of the mails to carry prescription medicine containing narcotic drugs. This rule also would fully harmonize those regulations, namely, Domestic Mail Manual CO23.6.8 and CO23.6.9, with the Controlled Substances Act and its implementing regulations. As a consequence, such use of the mail by dispensers of such medicine would be allowed to the same extent that distribution via any carrier is permitted under the Controlled Substances Act and implementing regulations.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Robert R. Adams, (202) 268–5168.

SUPPLEMENTARY INFORMATION: The Postal Service published in the **Federal Register** (58 FR 67747–67748) on December 22, 1993, a proposal to amend the Domestic Mail Manual to remove postal regulations restricting use of the mail to carry prescription medicine containing narcotic drugs.

Domestic Mail Manual (DMM) CO23.6.9 currently states that "prescription medicines containing narcotic drugs may be mailed only by Department of Veterans Affairs medical facilities to certain veterans." Some commercial suppliers have reported that they routinely ship such medicines via carriers competing with the Postal Service, and that the shipments are not prohibited by the Controlled Substances Act, 21 U.S.C. 801 et seq., and its implementing regulations, 21 CFR 1300 et seq. These suppliers state that they would prefer to make these shipments via the Postal Service, except for the foregoing restriction in postal regulations.

Upon review, the Postal Service has found no need for provisions in its regulations on mailing controlled substances that would be stricter than those applicable to shipments via competing carriers. Whatever the means of carriage, such shipments must comply with the Controlled Substances Act and the regulations implementing it that provide a comprehensive system for protecting the public.

The revisions will make postal regulations fully consistent with that protective system. Although adopting this proposal may lead to substantial increases in the amount of mailed medicines containing narcotics, compliance with Postal Service regulations for preparation and packaging prerequisites should yield secure transit for those shipments.

The Postal Service received comments on the proposed rule from five parties. All comments were in favor of implementing the proposed rule.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Domestic Mail Manual C023 is hereby amended to read as follows:

6.0 Poisons, Controlled Substances, and Drug Paraphernalia

* * * * *

6.6 Controlled Substances

A "controlled substance" is any anabolic steroid, narcotic, hallucinogenic, stimulant, or depressant drug in Schedules I through V of the Controlled Substances Act (Public Law 91–513), 21 U.S.C. 801 et seq., and 21 CFR 1300 et seq. Because controlled substances are potentially addictive and abusable, if distribution of a controlled substance is unlawful under 21 U.S.C. 801 et seq., and under any relevant implementing regulations in 21 CFR 1300 et seq., distribution of such matter by mail is also unlawful under 18 U.S.C. 1716. Section 1716(a) prohibits from being conveyed in the mails all matter capable of killing or injuring a person.

6.9 Mailing Requirements

Under 18 U.S.C. 1716(b), the Postal Service may permit the mailing of matter not outwardly or of its own force dangerous or injurious to a person's life or health, subject to the preparation and packaging standards specified by the Postal Service. Accordingly, if distribution of a controlled substance is lawful under 21 U.S.C. 801 et seq., and any relevant implementing regulations in 21 CFR 1300 et seq., the Postal Service considers such distribution by mail to constitute the mailing of matter not outwardly or of its own force dangerous or injurious to a person's life or health, if the following preparation and packaging standards are met:

a. The inner container of any parcel containing controlled substances is marked and sealed under the applicable provisions of the Controlled Substances Act (21 U.S.C. 801 et seq. and the regulations implementing it, 21 CFR 1300 et seq.) and placed in a plain outer container or securely overwrapped in plain paper.

b. If the controlled substances consist of prescription medicines, the inner container is also labeled to show the prescription number and the name and address of the pharmacy, practitioner, or other person dispensing the prescription.

c. The outside wrapper or container is free of markings that would indicate the nature of the contents.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register**, as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–24578 Filed 10–4–94; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 15 and 32

[FRL–5083–8]

Ineligibility for Federal Contracts, Assistance, Loans and Benefits

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical amendments.

SUMMARY: This rule makes several changes to the Environmental Protection Agency (EPA) rules in 40 CFR part 15 governing the ineligibility of facilities under the Clean Air Act (CAA) and the Clean Water Act (CWA) to receive Federal contracts, assistance and loans; and in 40 CFR part 32 governing nonprocurement suspension and debarment under EO 12549. This rulemaking conforms parts 15 and 32 to the changes EPA has made to the internal administrative responsibilities for the two debarment programs.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Robert F. Meunier, Director, Suspension and Debarment Division (3902F), 401 M Street, SW., Washington, DC 20460. Telephone: (202) 260–8025.

SUPPLEMENTARY INFORMATION:

A. Background

In 1993, EPA's Office of Administration and Resources Management (OARM) was reorganized to improve the administration contracts. That reorganization changed the titles of certain EPA officials having prescribed responsibilities under part 32 for the nonprocurement suspension and debarment program.

Earlier this year, the EPA Administrator decided to reorganize the former Office of Enforcement (OE). As part of that reorganization, administrative responsibility for the part 15 CAA and CWA contractor listing program was transferred to OARM so that all EPA debarment functions would be conducted by a single office.

These two reorganizations make it necessary to amend 40 CFR parts 15 and 32 to conform them to EPA's internal administrative changes. This rulemaking also modifies provisions of part 15 so that they describe the current practice of publishing all CAA and CWA ineligibility information in the List of Debarred, Suspended, Voluntarily Excluded, and Ineligible Persons maintained by the General Services Administration. In 1995, the Agency plans to propose substantive revisions to 40 CFR parts 15 and 32 which will consolidate these two sets of rules into a single part.

Rulemaking Analysis

B. Executive Order 12866

This is not a significant regulatory action under EO 12866; therefore, no review by the Office of Information and Regulatory Affairs is required.

C. Regulatory Flexibility Act

The EPA certifies that this rule does not exert a significant economic impact on a substantial number of small entities. The rule makes nomenclature changes only to existing rules.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements for the approval of OMB under 44 U.S.C. 3501 et seq.

E. Public Comments

The EPA has not solicited public comments on this final rule.

List of Subjects

40 CFR Part 15

Administrative practice and procedure, Debarment and suspension.

40 CFR Part 32

Administrative practice and procedure, Debarment and suspension.

Dated: September 27, 1994.

Sallyanne Harper,

Acting Assistant Administrator, Office of Administration and Resources Management.

For the reasons set out in the preamble, 40 CFR parts 15 and 32 are amended as follows:

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

Authority: 42 U.S.C. 7401 et seq.; 33 U.S.C. 1251 et seq.; EO 11738 of September 10, 1973 (38 FR 28161).

2. Section 15.3 is revised to read as follows:

§ 15.3 Administrative responsibility.

The authority and responsibilities assigned to the Administrator of the Environmental Protection Agency under EO 11738 have been delegated to the Assistant Administrator for Administration and Resources Management. Such authority and responsibilities may be redelegated, except that the delegated authority to issue or amend rules and regulations may not be redelegated.

3. In § 15.4, the definitions of "Assistant Administrator," "Case Examiner," "List Official" and "Recommending Person" are revised, and a new definition of "Debarring Official" is added in alphabetical order to read as follows:

§ 15.4 Definitions.

* * * * *

Assistant Administrator means the Assistant Administrator for Administration and Resources Management, United States Environmental Protection Agency, or his or her designee.

* * * * *

Case Examiner means a hearing examiner designated by the Debarring Official.

* * * * *

Debarring Official means the Director, Office of Grants and Debarment, or his or her designee.

* * * * *

Listing Official means the EPA official or officials designated by the Debarring official to carry out administrative functions pertaining to the listing or removal of a facility under this regulation.

* * * * *

Recommending Person means the Director, Suspension and Debarment Division or his or her designated debarment counsel; a Regional Administrator; the Assistant Administrator for Air and Radiation; the Assistant Administrator for Water; a Governor; or a member of the public.

* * * * *

4. Sections 15.11(c), 15.12(a) and 15.12(d) are amended by revising the six references to "Assistant Administrator" to read "Debarring Official".

5. Section 15.13(a) is amended by removing the second sentence.

6. Sections 15.13 paragraphs (c) and (d), and § 15.14 are amended by: removing the eleven references to "Case Examiner's decision" and adding in their place the phrase "Debarring Official's decision"; and by removing the four references to "Case Examiner" and adding in their place the phrase "Debarring Official".

7. Section 15.15 is amended by removing the reference to "Assistant Administrator" and adding in its place the phrase "Debarring Official".

8. Section 15.16 is amended by removing paragraph (c).

9. Sections 15.20, 15.21, 15.22 and 15.23 are amended by removing the seven references to the "Assistant Administrator" and adding in their place "Debarring Official", and removing the single reference to "Assistant Administrator's decision" and adding in its place the phrase "Debarring Official's decision".

10. Section 15.24(a) is amended by revising the first sentence to read as follows:

§ 15.24 Removal hearing.

(a) A removal hearing shall be conducted by the Debarring Official or by a Case Examiner. * * *

11. Section 15.24(c) is amended by removing the phrase "Case Examiner's decision" and adding in its place "Debarring Official's decision".

12. Section 15.24(d) is amended by removing the references to "Case Examiner", "Administrator" and "Case Examiner's decision" and adding in their place "Debarring Official", "Assistant Administrator" and "Debarring Official's decision", respectively.

13. Section 15.25 is amended by: removing the four references to "Case Examiner" in the heading, paragraph (a)(3) and paragraph (b), and adding in their place "Debarring Official"; removing the four references to "Case Examiner's decision" in paragraphs (a) and (c) and adding in their place "Debarring Official's decision"; and removing the four references to "Administrator" in paragraphs (a), (b) and (c) and adding in their place "Assistant Administrator".

§ 15.26 [Amended]

14. Section 15.26 is amended by removing the references to "Assistant Administrator", "a Case Examiner" and "Administrator" in paragraph (a) and adding in their place "Debarring Official", "the Debarring Official" and "Assistant Administrator", respectively. Paragraph (b) is amended by removing the reference to "Assistant Administrator's decision" and adding in its place "Debarring Official's decision".

§ 15.27 [Amended]

15. Section 15.27 is amended by removing the last sentence.

§§ 15.32, 15.33 [Amended]

16. Sections 15.32 and 15.33 are amended by removing the ten references to "Assistant Administrator" or "Assistant Administrator's" and adding in their place "Debarring Official" or "Debarring Official's", respectively.

17. Section 15.40 is revised to read as follows:

§ 15.40 Distribution of the List of Violating Facilities.

The Listing Official shall provide the General Services Administration (GSA) with current information about all final mandatory and discretionary listing actions and final removal actions under this part. Such information shall be made available in the list of debarred, suspended, voluntarily excluded, and ineligible persons GSA is required by EO 12549 to compile, maintain, and distribute.

18. Section 15.41 is amended by removing the five references to "Administrator" and adding in their place "Assistant Administrator".

19. The authority citation for part 32 is revised to read as follows:

Authority: EO 12549; 41 U.S.C. 701 *et seq.*; 7 U.S.C. 136 *et seq.*; 15 U.S.C. 2601 *et seq.*; 20 U.S.C. 4011 *et seq.*; 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 300f, 4901, 6901, 7401, 9801 *et seq.*

20. The heading of part 32 is revised to read as follows:

PART 32—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

21. Section 32.105 is amended by revising paragraphs (g)(3) and (t)(3) to read as follows:

§ 32.105 Definitions.

* * * * *

(g) * * *

(3) The Director, Office of Grants and Debarment, is the authorized Debarring Official.

* * * * *

(t) * * *

(3) The Director, Office of Grants and Debarment, is the authorized Suspending Official.

* * * * *

22. Section 32.215 is amended by revising paragraph (a) to read as follows:

§ 32.215 Exception Provision.

* * * * *

(a) The Director, Office of Grants and Debarment, is the official authorized to grant exceptions.

§ 32.335 Appeal.

23. In § 32.335 the second sentence of paragraph (a) is revised to read as follows:

(a) * * * However, any party to the action may request the Assistant Administrator for Administration and Resources Management (Assistant Administrator), to review the findings of the Debarring Official by filing a request with the Assistant Administrator within 30 calendar days of the party's receipt of the debarment determination, or its reconsideration. * * *

* * * * *

§ 32.335 [Amended]

24. In paragraphs (b), (c), and (d) of § 32.335, remove the four references to "OA Director" and add in their place "Assistant Administrator."

§ 32.430 Appeal.

25. In § 32.430 the second sentence of paragraph (a) is revised to read as follows:

(a) * * * However, any party to the action may request the Assistant Administrator for Administration and Resources Management (Assistant Administrator), to review the findings of the suspending official by filing a request with the Assistant Administrator within 30 calendar days of the party's receipt of the suspension determination, or its reconsideration. * * *

* * * * *

§ 32.430 [Amended]

26. In paragraphs (b), (c), and (d) of § 32.430, remove the four references to "OA Director" and add in their place "Assistant Administrator."

[FR Doc. 94–24640 Filed 10–4–94; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 51

[FRL–5082–2]

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of Volatile Methyl Siloxanes and Parachlorobenzotrifluoride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for the Federal implementation plan (FIP) for the Chicago ozone nonattainment area. This revision adds parachlorobenzotrifluoride (PCBTF) and volatile methyl siloxanes (VMS) to the list of compounds excluded from the definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation.

EFFECTIVE DATES: This final action will be effective on December 5, 1994 unless notice is received by November 4, 1994 that someone wishes to submit adverse or critical comments or request a public hearing. If the effective date is delayed for this action due to the need to provide for public comment, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be submitted in duplicate (if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–93–47, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments should be strictly limited to the subject matter of this rule, the scope of which is discussed below.

Public Hearing: If anyone contacts EPA requesting a public hearing, it will be held at Research Triangle Park, North Carolina. Persons wishing to request a public hearing, wanting to attend the hearing or wishing to present oral testimony should notify Mr. William Johnson, Air Quality Management Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5245. The EPA will publish notice of a hearing, if a hearing is requested, in the **Federal Register**. Any hearing will be strictly limited to the subject matter of the rule, the scope of which is discussed below.

This action is subject to the procedural requirements of section 307(d)(1)(B), (J), and (U) of the Act, and 42 U.S.C. 7607(d)(1)(B), (J), and (U). Therefore, EPA has established a public docket for this action, A–93–47, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, Room M–1500, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Management Division (MD–15), Research Triangle Park, NC 27711, phone (919) 541–5245.

SUPPLEMENTARY INFORMATION:

I. Background

On September 28, 1992, the Occidental Chemical Corporation (also known as OxyChem) petitioned EPA to take all necessary and appropriate action to exclude parachlorobenzotrifluoride (also known as 4-chlorobenzotrifluoride, PCBTF, $C_7H_4F_3Cl$ (CAS number 98–56–6)) from regulation as a precursor to tropospheric ozone. In support of their petition, Occidental Chemical Company submitted two reports: "Loss Processes for 4–Chlorobenzotrifluoride Under Atmospheric Conditions," by Roger Atkinson, Sara M. Aschmann, Arthur M. Winer and James N. Pitts, Jr., University of California at Riverside, October 1984; and "Tropospheric Lifetime Estimates for Several Aromatic Compounds," by David Nelson and Robert Brown, Aerodyne Research, Inc., May 1992. In addition, Occidental Chemical Company submitted a copy of an October 18, 1985 **Federal Register** notice (50 FR 42216) which announced a decision by EPA not to require further testing of parachlorobenzotrifluoride for health effects, environmental effects, and chemical fate under the Toxic Substances Control Act.

On December 11, 1992, Dow Corning Corporation petitioned EPA to take several actions that would have the effect of exempting VMS under the Act as precursors to tropospheric ozone. The VMS are organic compounds whose basic molecular structure is built on a backbone of alternating silicon and oxygen atoms, formed into either a ring or linear chain containing from two to seven silicon atoms. Methyl groups (and no other functional groups, as defined here) are attached to this central backbone, their numbers varying with the size and shape of the molecule. Compounds covered by the designation VMS in this proposal are cyclic, branched, or linear, completely methylated siloxanes, including the compounds listed in Table 1. Symbols shown in the table, such as MM and D_4, are commonly accepted abbreviations for the longer chemical name shown beside each.

TABLE 1.—VOLATILE METHYL SILOXANES

CAS No.	Chemical name	Formula
Linear VMS:		
107-45-0	Hexamethyldisiloxane (MM)	$C_6H_{18}OSi_2$
107-51-7	Octamethyltrisiloxane (MDM)	$C_8H_{24}O_2Si_3$
141-62-8	Decamethyltetrasiloxane (MD_2M)	$C_{10}H_{30}O_3Si_4$
141-63-9	Dodecamethylpentasiloxane (MD_3M)	$C_{12}H_{36}O_4Si_5$
107-63-9	Tetradecamethylhexasiloxane (MD_4M)	$C_{14}H_{42}O_5Si_6$
63148-62-9	Dimethyl silicones and siloxanes (MD_xM)	
Cyclic VMS:		
541-05-9	Hexamethylcyclotrisiloxane (D_3)	$C_6H_{18}O_3Si_3$
556-67-2	Octamethylcyclotetrasiloxane (D_4)	$C_8H_{24}O_4Si_4$
541-02-6	Decamethylcyclopentasiloxane (D_5)	$C_{10}H_{30}O_5Si_5$
540-97-6	Dodecamethylcyclohexasiloxane (D_6)	$C_{12}H_{36}O_6Si_6$
69430-24-6	Cyclopolydimethylsiloxanes (D_x)	
Branched VMS:		
17928-28-8	1,1,1,3,5,5,5-Heptamethyl-3-[(trimethylsilyl)oxyl]-trisiloxane (M_3T)	$C_{10}H_{30}O_3Si_4$
3555-47-3	1,1,1,5,5,5-Hexamethyl-3,3,bis[(trimethylsilyl)oxy]-trisiloxane (M_4Q)	$C_{12}H_{36}O_4Si_5$
	Pentamethyl[(trimethylsilyl)oxy]cyclotrisiloxane (MD_3)	$C_8H_{24}O_4Si_4$

Based on the results of reactivity studies demonstrating that VMS do not contribute to tropospheric ozone formation, Dow Corning Corporation requested that EPA do the following:

1. Amend EPA's general regulatory definition of VOC appearing in 40 CFR 51.100(s) (see 57 FR 3945, February 3, 1992) so as expressly to exclude VMS from the term "VOC" by final regulatory action.

2. In taking action on any currently-pending or future proposal to approve State VOC regulations as part of a SIP, clarify that EPA lacks authority to approve or enforce VOC regulations to the extent that they apply to VMS or otherwise regulate VMS as precursors to tropospheric ozone.

3. In taking any future proposed or final regulatory action to amend or promulgate VOC regulations for the purpose of reducing tropospheric ozone (e.g., any action pursuant to section 183(e) of the Act to control VOC in consumer and commercial products), take such action and make such statements as may be necessary to ensure that such regulations will not apply to VMS.

4. Take such other actions and make such other statements as may be necessary to implement the exemption of VMS from regulation as precursors to tropospheric ozone.

In support of its requests, Dow Corning submitted supporting information and documentation to demonstrate that VMS:

1. Do not contribute to the formation of tropospheric ozone, and in some situations inhibit the formation of tropospheric ozone;

2. Do not deplete stratospheric ozone;

3. Are generally nontoxic to humans and the environment;

4. Are used in personal care products and other consumer products;

5. Have potential uses as substitutes for chlorofluorocarbons in a number of specified applications; and,

6. Have a wide variety of applications and potential applications as substitutes for other VOC.

The petition included a number of reports on smog chamber reactivity studies on VMS and other supporting information. A copy of this material is included in the docket for this rulemaking.

Several toxicity studies for multiple routes of exposure exist for parachlorobenzotrifluoride. In laboratory animals, kidney and liver effects have been documented. More importantly, eye and nasal irritation were observed during inhalation exposures. However, it is not expected to have ecological effects. There is a lack of data concerning carcinogenicity in humans and animals. Of the volatile methyl siloxanes, only the D4 has been studied extensively. Mild liver effects (inhalation exposure) and testicular effects (dietary exposure) were observed in laboratory animals. The D4 compound is known to produce adverse immunological effects when injected, but it is not known if the same effect can be elicited by inhalation exposure. These compounds are not included on the 112(b)(1) list of hazardous air pollutants and are not regulated by any program. Our best judgment at this time is that the known toxic effects of the pollutants do not warrant alteration of a decision to remove them from the VOC list nor warrant addition to the 112(b)(1) list. If additional data were to alter this judgment, or if petitioned, the Agency would further consider the need to add either or both compounds to 112(b)(1).

If VMS and PCBTF are accepted as having negligible photochemical reactivity, exempting them from regulation as ozone precursors could contribute to the achievement of several important environmental goals. For example, they might be used as a substitute for several compounds (e.g., methyl chloroform) that are listed as hazardous air pollutants (HAP) under section 112 of the Act.

Another area of concern is finding substitutes for ozone depleting substances (ODS) which are active in depleting the stratospheric ozone layer. Under the London Amendments to the Montreal Protocol on substances that deplete the ozone layer ("Montreal Protocol"), the United States agree to phase out production and consumption of certain chlorofluorocarbons (CFC) by the year 2000 and methyl chloroform by 2005 (see 58 FR 15016 (March 18, 1993)). In 1990, Congress added title VI to the Act in part to provide for the implementation of this phaseout (see 42 U.S.C. § 7671 *et seq.*). The 1990 Amendments specified an initial list of Class I and Class II ODS, authorizing EPA to add compounds to both lists depending on a given compound's potential to contribute to stratospheric ozone depletion, (*Id.* 7671a.) The 1990 Amendments further required phaseout of the production and consumption of Class I ODS by 2000, methyl chloroform by 2002, and Class II ODS by 2030 (see 42 U.S.C. 7671c, 7671d). At the fourth meeting, in 1992, of the parties to the Montreal Protocol in Copenhagen, Denmark, the parties adjusted the phaseout schedules of Class I substances under the Montreal Protocol to phase out Class I CFC and methyl chloroform by 1996. In 1993, EPA proposed to accelerate the phaseout of Class I CFC and methyl chloroform in order to discontinue use of these compounds after January 1, 1996 (see 58 FR 15022).

As a result of these phaseout deadlines, there is a need to develop substitutes for ODS. The EPA has listed several VMS compounds as ozone-depleting substance substitutes under the program known as the "Significant New Alternatives Policy" (SNAP) program, (59 FR 13044, March 18, 1994). Within the context of the SNAP rule, substitutes are "acceptable" if they are technically feasible to be used as an alternative to an ODS for particular uses and give reduced overall risk to human health and the environment compared to the ODS they replace. In the SNAP rule, EPA listed several volatile siloxanes as acceptable substitutes for metal cleaning, electronics cleaning, and precision cleaning (59 FR 13134). The SNAP program lists benzotrifluorides as "pending decisions" for use in aerosols and adhesives, coatings, and inks (59 FR 13145). The Agency has not yet completed reviews of data for these benzotrifluoride compounds, but plans to issue a SNAP determination for these substitutes in the next set of listing decisions (59 FR 13118).

In these areas of concern, toxic air emissions and depletion of stratospheric ozone, adding these compounds to the list of negligibly-reactive VOC may provide support for the EPA's pollution prevention efforts. By enacting the Pollution Prevention Act of 1990, Congress established as a national policy that "pollution should be prevented or reduced at the source whenever feasible" (42 U.S.C. 13). An important part of EPA's pollution prevention strategy is encouraging companies to use substitutes in their production processes that are more environmentally benign than the substances they currently use. For example, in its blueprint for a comprehensive national pollution prevention strategy, (56 FR 7849 (February 26, 1991)), the EPA recognized that the definition of pollution prevention includes a "switch to non-toxic or less toxic substitutes" (*Id.* at 7854).

II. The EPA Response to the Petitions

The EPA is responding to these petitions by taking action in this notice to add PCBTF and VMS to the list of compounds appearing in 40 CFR 51.100(s) that are excluded from the definition of VOC. By this final action, PCBTF and VMS are excluded from the VOC definition.

The EPA's conclusions concerning the exclusion of PCBTF are based on the report "Loss Processes For 4-Chlorobenzotrifluoride Under Atmospheric Conditions," by Roger Atkinson et al. (University of California/Riverside), October 1984. This report along with other information was submitted by Occidental Chemical Corporation and has been placed in the docket for this action.

The Atkinson et al. report indicated that the k_{OH} reactivity of PCBTF ($2.3\times10^{-13}cm^3$ molecule^{-1} sec^{-1}) is somewhat lower than, but statistically indistinguishable from, that of ethane ($2.7\times10^{-13}cm^3$ molecule^{-1} sec^{-1}). Ethane is currently the most reactive of the compounds currently excluded as VOC due to negligible photochemical reactivity. It is conceivable, however, that there are other processes, e.g., photodissociation, reaction with ozone or with nitrogen trioxide (NO_3) radicals, that might enhance the ozone-forming reactivity of PCBTF. Atkinson et al. explored to some extent these possibilities by studying experimentally the photodissociation of PCBTF and its reaction with ozone. They found a negligibly low rate of reaction with ozone and no measurable photolysis of PCBTF. The photolysis detection limit, however, was 2.7×10^{-6} sec^{-1}, which is a rate somewhat higher than that of the reaction rate with hydroxyl radicals (OH) in typical mid-day urban atmospheres (1.4×10^{-6} sec^{-1}). Thus, significant, though nonmeasurable, photodissociation of PCBTF in the atmosphere cannot be precluded. On the other hand, it is not known whether dissociation, even if it does occur, would enhance the ozone-forming reactivity of PCBTF. In the absence of measurable photodissociation, Atkinson et al. could not obtain evidence on the nature and follow-up chemistry of the photodissociation products.

In summary, the evidence available indicates that: (1) The k_{OH} reactivity of PCBTF is not higher than that of ethane, and (2) there is no evidence of processes (other than reaction with OH) that might increase the ozone-forming reactivity above that of ethane.

The EPA's decision concerning the exclusion of VMS as VOC is based on the following: "Investigation of the Ozone Formation Potential of Selected Volatile Silicone Compounds," by William P. L. Carter et al. (University of California/Riverside), November 1992; "Determination of the Atmospheric Lifetimes of Organosilicon Compounds," by Roger Atkinson et al. (University of California/Riverside), September 1990; and "Kinetics of the Gas Phase Reactions of a Series of Organosilicon Compounds with OH and NO_3 Radicals and O_3 at 297±2K," by R. Atkinson et al. (Environmental Science & Technology, *25*, p.863, 1991). These reports were submitted, along with other materials by Dow Corning, in support of its petition. This information has been placed in the docket for this action.

The Atkinson et al. studies indicated that volatile methyl siloxanes have k_{OH} reactivities higher than that of ethane, and suggested that follow-up smog chamber studies should be conducted to determine their ozone-forming potentials. Such a chamber study is the subject of the Carter et al. report. Carter produced evidence for hexamethyldisiloxane (MM), octamethylcyclotetrasiloxane (D_4), and decamethylcyclopentasiloxane (D_5) that showed these siloxanes have negative ozone-forming potentials for commonly-occurring ambient conditions. However, the degradation pathways (mechanism) are still not well understood. Nevertheless, the investigators concluded that the ozone-forming reactivities of these siloxanes cannot be higher than that of ethane.

III. Final Action

Today's final action is based on EPA's review of the material in Docket No. A-93-47. 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 definition revision should adverse or critical comments be filed or a request for a public hearing be made. The EPA hereby amends its definition of VOC at 40 CFR 51.100(s) to exclude PCBTF and VMS as VOC for ozone SIP and ozone control purposes. The revised definition will apply in the Chicago ozone nonattainment area pursuant to the 40 CFR 52.741(a)(3) definition of volatile organic material or volatile organic compound. States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy. Further, these negligibly-reactive compounds may not be used for emissions netting (e.g., 40 CFR 51.166(b)(2)(c)), offsetting (40 CFR appendix S), or trading with reactive VOC (Emissions Trading Policy Statement, 51 FR 43814, December 4, 1986 and Economic Incentive Program Rules, 59 FR 16690, April 7, 1994).

In addition, corrections are made to the names of three compounds which

have previously been exempted from the definition of VOC: 1,1,1-trichloro-2,2,2-trifluoroethane (CFC–113) is changed to 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); chlorodifluoromethane (CFC–22) is changed to chlorodifluoromethane (HCFC–22); and trifluoromethane (FC–23) is changed to trifluoromethane (HFC–23). These changes are corrections to nomenclature only and are not substantive.

Pursuant to 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 because it relaxes current regulatory requirements rather than imposing new ones. The EPA has determined that this rule is not "significant" under the terms of Executive Order 12866 and is, therefore, not subject to Office of Management and Budget (OMB) review. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Assuming this rulemaking is subject to section 317 of the Act, the Administrator concludes, weighing the Agency's limited resources and other duties, that it is not practicable to conduct an extensive economic impact assessment of today's action since the rule promulgated today will relax current regulatory requirements. Accordingly, the Administrator simply notes that any costs of complying with today's action, any inflationary or recessionary effects of the regulation, and any impact on the competitive standing of small businesses, on consumer costs, or on energy use, will be less than or at least not more than the impact that existed before today's action.

List of Subjects in 40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 23, 1994.

Carol M. Browner,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7410(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7620.

2. Section 51.100 is amended by revising paragraph (s)(1) introductory text to read as follows:

§ 51.100 Definitions.

* * * * *

(s) * * *

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC 142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; and perfluorocarbon compounds which fall into these classes:

* * * * *

[FR Doc. 94–24642 Filed 10–4–94; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–45 and 101–46

[FPMR Amendment H–190]

RIN 3090–AF40

Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation changes FPMR Subchapter H to authorize Heads of Federal agencies to determine who will sell the agency's personal property and to reduce the length of the regulations. These changes delete the requirement that agencies must report property to GSA for sale and reduce the regulations, where feasible.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Lester D. Gray, Jr., Director, Property Management Division, 703–305–7240.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant rule for the purposes of Executive Order 12866.

Regulatory Flexibility Act

This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Parts 101–45 and 101–46

Government property management, Reporting requirements, Surplus Government property, Exchange/sale authority.

For the reasons set forth in the preamble, 41 CFR Parts 101–45 and 101–46 are amended as follows:

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

1. The authority citation for Part 101-45 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); §§ 101–45.400 through 101–45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 3041.

§ 101–45.00 [Removed]

§ 101–45.002 [Redesignated as § 101–45.001]

2. Section 101–45.001 is removed and § 101–45.002 is redesignated as § 101–45.001.

3. Sections 101–45.001–1 through 101–45.001–7 are removed.

Subpart 101–45.1—General

4. Sections 101–45.103–1 and 101–45.103–2 are revised to read as follows:

§ 101–45.103–1 Conduct of Sales.

Heads of Federal agencies, or their designees, are responsible for determining whether their agencies will (a) report their personal property to the General Services Administration (GSA) for sale for a fee for services rendered or (b) conduct or contract for the sale of their own property. If agencies elect to sell their own property, a designation indicating such shall be entered on their reports of excess personal property to prevent GSA from automatically programming the property for sale.

§ 101–45.103–2 Holding Agency Sales.

All provisions of Parts 101–45 and 101–46 shall be followed in conducting sales of Government-owned personal property. Agency internal procedures shall be issued to ensure compliance and uniformity and to protect the integrity of the sales process.

5. Sections 101–45.103–3 and 101–45.103–4 are added to read as follows:

§ 101–45.103–3 Sales by GSA.

(a) For property reported to GSA for disposal, the following basic services will be provided at reimbursable rates established by GSA on an annual basis.

(1) Auction and spot bid sales. The following services are covered under the basic rate:

(i) Property cataloging;

(ii) Maintenance of mailing list;

(iii) Printing and distribution of announcement to bidders on mailing list;

(iv) Normal media advertising (one newspaper or equivalent);

(v) Registration of bidders;

(vi) Auctioneer;

(vii) Onsite contracting officer;

(viii) Award document preparation;

(ix) Onsite collection of proceeds;

(x) Follow-on collection of late payments;

(xi) Security service;

(xii) Deposit of proceeds;

(xiii) Distribution of proceeds;

(xiv) Financial and property line item accountability; and

(xv) Contract administration.

(2) Sealed bid sales. The following services are covered under the basic rate:

(i) Property cataloging;

(ii) Maintenance of mailing list;

(iii) Printing/distribution of invitation for bids to bidders on mailing list;

(iv) Bid opening;

(v) Contract awards;

(vi) Preparation of award documents;

(vii) Financial and property line item accountability; and

(viii) Contract administration;

(b) GSA will deduct service charges from the proceeds of sale.

(c) For sales proceeds that are reimbursable to the holding agency, net proceeds (sales proceeds less GSA's direct, and indirect costs) will be distributed to the agency via the on-line payment and accounting control (OPAC) system.

(d) A portion of the proceeds from the sale of nonreimbursable surplus property will also be retained by GSA to cover its direct and indirect costs. The net proceeds will be deposited to miscellaneous receipts of the Treasury.

(e) Rates for accessorial services, including transportation, storage, maintenance, and reconditioning of property prior to sale, will vary according to local market conditions and will be published in GSA regional bulletins available from the servicing GSA region.

(f) Agencies may be consulted to assist GSA in the determination of the best method of sale and their requirements for accessorial services.

(g) Property for which the sales contract is terminated for default will be resold at no cost to the holding agency. Property for which the sales contract is terminated for cause, e.g., misdescription of the property, will be resold at the holding agency's cost if the cause is attributable to the holding agency.

§ 101–45.103–4 Sales Conducted at Holding Agency Facilities.

If GSA sells property from holding agency facilities, holding agencies shall be responsible for the following:

(a) Providing the appropriate GSA regional office with information necessary for effective sale of property and the accounting data for appropriate application of gross proceeds;

(b) Transporting property to a consolidated sales site when agreed to by the holding agency and GSA;

(c) Providing for the inspection of property by prospective bidders;

(d) Providing facilities for the conduct of sales and the essential administrative, clerical, or labor assistance when requested by GSA; and

(e) Assisting in the physical lotting of property to be sold at agency facilities.

5. Section 101–45.105–3 is revised to read as follows:

§ 101–45.105–3 Exemptions.

Exemptions from the provisions of this Part 101–45 may be obtained by an agency head who believes that authority with respect to the programs covered by section 602(d) of the Act would be impaired or adversely affected by this part. Exemptions may be requested, in writing, from the Administrator of General Services.

Subpart 101–45.3—Sale of Personal Property

§ 101–45.301 [Removed and Reserved]

6. Section 101–45.301 is removed and reserved.

7. Section 101–45.303 is amended by revising the introductory paragraph to read as follows:

§ 101–45.303 Reporting Property for Sale.

If holding agencies elect to have GSA sell their property, it shall be reported to the appropriate GSA regional office for the region in which the property is physically located in the manner outlined below:

* * * * *

§ 101–45.304–3 [Removed and Reserved]

8. Section 101–45.304–3 is removed and reserved.

9. Section 101–45.304–6 is revised to read as follows:

§ 101–45.304–6 Reviewing Authority.

(a) A "reviewing authority" is a local, regional, or departmental board of review of an executive agency. Under subpart 101–45.9, reviewing authority also includes an applicable State board of review of a State agency for surplus property.

(b) Approval by reviewing authority of the agency effecting the sale shall be required for each proposed award when the contract value (actual or estimated fair market value) for property other than scrap exceeds the dollar thresholds listed below by method of sale:

(1) Negotiated sale of surplus property—$15,000 or more;

(2) Negotiated sale at fixed price of surplus or exchange/sale property—$25,000 or more; and

(3) Competitive bid sale—$100,000 or more.

10. Section 101–45.304–7 is amended by removing subparagraph (a)(4) and revising paragraph (c) to read as follows:

§ 101–45.304–7 Advertising.

* * * * *

(c) The appropriate GSA regional office shall be provided, at the time of public distribution, a copy of each invitation for bids or other form of offering involving contractor inventory, whether being sold by the contractor for the Government or by a Government activity authorized to conduct sales.

11. Section 101–45.304–8 is amended by revising the introductory paragraph and paragraph (a) to read as follows:

§ 101–45.304–8 Forms Prescribed.

Standard Forms 114, 114A, 114B, 114C, 114C–1, 114C–2, 114C–3, 114C–4, 114D, 114E, and 114F (illustrated at §§ 1010–45.4901–114 through 101–45.4901–114F) shall be used, where appropriate, in sales of personal property except that Standard Form 114C is not applicable to those sales involving any strategic metals, minerals, and ores which have been determined surplus pursuant to the Act. These forms will be stocked by GSA as cut sheets only. Authority for the use of such forms in styles other than cut sheets may be granted when requests for such deviation are submitted in accordance with § 101–26.302.

(a) Deviation. To ensure inclusion of appropriate terms, conditions, clauses,

etc., in Government sales contracts, no deviation shall be made from the Standard Form 114 series, and no special conditions of sales shall be included that are inconsistent with the provisions contained therein, unless approval is obtained from the Commissioner, Federal Supply Service (F) (mailing address: General Services Administration, Washington, DC 20406).

* * * * *

Subpart 101–45.47—Reports

12. Section 101–45.4701 is revised to read as follows:

§ 101–45.4701 Performance Reports.

An annual report of the sale or other disposition of surplus personal property shall be submitted in duplicate to GSA within 90 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Agencies shall attach a list to the Standard Form 121 showing by Federal Supply Group the following:

(a) Line items sold;
(b) Acquisition cost;
(c) Proceeds; and
(d) Cost of conducting sales.

PART 101–46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

13. The authority citation for Part 101–46 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

§ 101–46.001 [Removed]

§ 101–46.002 [Redesignated as § 101–46.001]

§ 101–46.003 [Removed]

§ 101–46.004 [Removed]

§ 101–46.005 [Removed]

14. Sections 101–46.001 through 101–46.001–5 are removed and § 101–46.002 is redesignated as § 101–46.001.

Subpart 101–46.2—Authorization

15. Section 101–46.202 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 101–46.202 Restrictions and Limitations.

* * * * *

(b) * * *
(1) * * *
(iii) The acquired item and the replaced item both fall within a single Federal Supply Group except for those items listed in paragraph (a) of this section which are not eligible for handling under the provisions of this part.

Subpart 101–46.3—Exchange/Sale Procedures

16. Section 101–46.300 is revised to read as follows:

§ 101–46.300 Scope of Subpart.

This part prescribes the policies and methods governing the actual exchange or sale of property which qualifies in accordance with this part. This property will be handled in the same manner as surplus property under Part 101–45, but identified as replacement property subject to the same exemptions and exceptions on reporting as otherwise would be applicable to surplus personal property.

17. Section 101–46.305 is revised to read as follows:

§ 101–46.305 Reports.

(a) Within 90 calendar days after the close of each fiscal year, executive agencies shall submit a summary report in letter form on the transactions made under this part during the fiscal year except for transactions involving books and periodicals as follows:

(1) A list by Federal Supply Group of property sold under this part showing in columns:
(i) Line items sold;
(ii) Acquisition cost;
(iii) Proceeds; and
(iv) Cost of sales.

(2) A list by Federal Supply Group of property exchanged under this part showing in columns:
(i) Line items exchanged;
(ii) Acquisition cost; and
(iii) Exchange allowance.

(3) Total acquisition cost of property acquired from any source other than new procurement which was subsequently exchanged or sold after being placed in official use for less than 1 year pursuant to § 101–46.202(c)(10) and for historical items exchanged pursuant to § 101–46.203(b) shall be listed separately by two-digit Federal supply classification groups.

(4) These data shall also be separated into two categories by geographic location as follows:

(i) The States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

(ii) All other areas of the world.

(b) The summaries shall not include any property that was initially designated for exchange/sale but which was transferred for further Federal utilization or was subsequently redesignated as excess or surplus property.

(c) Reports shall be addressed to the General Services Administration, Office of Transportation and Property Management (FB), Washington, DC 20406.

(d) The report required by this regulation has been assigned interagency report control number 1528–GSA–AN in accordance with FIRMR 201–45.6 (41 CFR 201–45.6).

(e) If an agency makes no transactions under this part during a fiscal year, the agency must submit a report stating that no transactions occurred.

Dated: September 26, 1994.

Roger W. Johnson,

Administrator of General Services.

[FR Doc. 94–24568 Filed 10–4–94; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7091

[NM–920–4210–06; NMNM 010206]

Revocation of Public Land Order No. 964; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects the remaining 1,442.14 acres of public lands withdrawn for use by the Atomic Energy Commission (now the Department of Energy). The lands are no longer needed for energy purposes. The revocation is needed to permit disposal of the land to the Navajo Nation through land exchange. The lands are within an overlapping withdrawal and thus remain closed to surface entry, mining, and mineral leasing, but remain open to exchange under the Act of March 3, 1921.

EFFECTIVE DATE: November 4, 1994.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505–438–7597.

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. Public Land Order No. 964, as amended, which withdrew public lands for use by the Atomic Energy Commission, is hereby revoked insofar

as it affects the remaining lands described as follows:

New Mexico Principal Meridian

T. 13 N., R. 11 W.,
Sec. 3, lots 1 and 2, S½NE¼, and S½;
Sec. 11;
Sec. 13, SE¼ and S½N½.

The areas described aggregate 1,442.14 acres in McKinley County.

2. The lands described in paragraph 1 are within an overlapping withdrawal, Public Land Order No. 2198, which withdrew lands to permit disposal of the lands to the Navajo Nation through land exchange, and thus remain withdrawn from settlement, sale, location, or entry under the general land laws, including the mining and mineral leasing laws, but remain open to exchange under the Act of March 3, 1921.

Dated: September 26, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–24669 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket RSOR–6; Notice No. 39]

RIN: 2130–AA81

Alcohol testing; Amendments to Alcohol/Drug Regulations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final Rule; Corrections.

SUMMARY: FRA issues a supplementary rule correcting two of the amendatory instructions contained in its February 15, 1994 final rule implementing alcohol testing [59 FR 7448].

EFFECTIVE DATE: October 5, 1994.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Docket No. RSOR–6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., room 8201, Washington, D.C., 20590.

FOR FURTHER INFORMATION CONTACT: D. Lamar Allen, Alcohol and Drug Program Manager (RRS–11), Office of Safety, FRA, Washington, D.C. 20590 (Telephone: (202) 366–0127) or Patricia V. Sun, Trial Attorney (RCC–30), Office of Chief Counsel, FRA, Washington, D.C. 20590 (Telephone: (202) 366–4002).

SUPPLEMENTARY INFORMATION: This rule contains only editorial corrections. Therefore, good cause exists under the provisions of 5 U.S.C. 553(d)(e) to warrant an expedited effective date.

Corrections

In the rule document beginning on page 7448 in the issue of Tuesday, February 15, 1994 make the following corrections:

1. On page 7461, amendatory instruction 16 should read "Section 219.209 is amended by revising the last sentence of paragraph (a)(1); and by adding a new paragraph (c), as follows:".

2. On page 7465, amendatory instruction 42 should read "Part 219 is amended by adding a new section 219.801 to Subpart I as follows:".

Issued in Washington, D.C. on September 29, 1994.

S. Mark Lindsey,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 94–24576 Filed 10–4–94; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 921058–4257; I.D. 090892B]

RIN 0648–AD44

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Final rule.

SUMMARY: NMFS implements a regulatory amendment to establish standard groundfish product types and standard product recovery rates (PRRs) for purposes of managing the groundfish fisheries off Alaska and specify certain product types and PRRs that may be used to calculate round-weight equivalents of pollock for purposes of calculating amounts of pollock roe that may be retained onboard a vessel during the pollock fishery. These actions are necessary to facilitate enforcement of existing regulatory measures and to implement a statutory prohibition against the wasteful use of pollock by stripping roe (eggs) from female pollock and discarding female and male pollock carcasses without further processing, commonly known as pollock roe stripping. The intended effect of this action is to promote the purposes and policies of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

EFFECTIVE DATE: November 4, 1994.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan (FMP) for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

An explanation of, and reasons for, the establishment and specifications of standard product types and standard PRRs are contained in the notice of proposed rulemaking (58 FR 44643, August 24, 1993). The notice invited comments through September 23, 1993. It also proposed a regulatory amendment to reduce the proportion of pollock roe that may be retained onboard a vessel while participating in the directed pollock fishery. That regulatory amendment has already been implemented by a final rule (59 FR 14121, March 25, 1994). Six letters of comments were received that addressed standard product types and standard PRRs. They are summarized and responded to in the Comments Received section, below.

Changes in the Final Rule From the Proposed Rule

Table 2 is redesignated as Table 1 in 50 CFR 672.20(j)(1), (2) and (3)(i) and (3)(ii).

The newly designated Table 1 in 50 CFR 672.20(j)(2) is revised as follows.

1. Product codes and standard PRRs are established for rex sole in the GOA to accommodate a new target species category at 50 CFR 672.20(a) resulting from 1994 groundfish specifications.

2. The standard PRR for rockfish fillets/no skin (code 22) is changed from 0.35 to 0.33, and the standard PRR for sculpins, headed & gutted with roe (code 4) is changed from 0.88 to 0.87. These changes are insignificant and are made to reflect information contained in the literature for these product types.

3. A standard PRR for pollock surimi of 0.14 was proposed. That rate does not reflect seasonal variations experienced in this product. Seasonal variations are caused by changes in the physical condition of pollock flesh during the spawning season. This season generally occurs from January through June, followed by a recuperation period. Starting in July, the condition of pollock flesh improves, becoming optimum during the late summer months. For this reason, the BSAI pollock non-roe season was changed by regulation from June 1 to August 15, beginning in 1993.

To investigate seasonal differences in pollock products, NMFS reviewed data from the 1993 pollock roe and non-roe seasons, which occurred January 20–March 8 and August 15–September 22, respectively, for the "offshore component." NMFS also reviewed data from the "offshore component" from the 1994 pollock roe season, which occurred January 20–February 18. These data contained estimates of total retained pollock catches as reported by NMFS observers and amounts of surimi produced from the retained pollock as reported by vessels. During the 1993 roe season, 20,934 metric tons (mt) of surimi were produced from a retained pollock catch of 134,558 mt resulting in a average PRR of 0.155. During the 1994 roe season, 23,267 mt of surimi were produced from a retained pollock catch of 144,134 mt, resulting in an average recovery rate of 0.161. During the non-roe season, 29,878 mt of surimi were produced from a retained pollock catch of 171,320 mt, resulting in an average recovery rate of 0.17.

From these data, NMFS has determined that sufficient information exists to demonstrate seasonal differences in surimi recovery rates. Therefore, NMFS is establishing a standard PRR of 0.16 for the period January through June and a standard PRR of 0.17 for the period July through December.

4. The standard PRR for pollock skinless/boneless fillets (product code 23) is revised from 0.22 to 0.21. This revision is based on results of recovery tests conducted by NMFS observers.

5. The target species category "flathead sole" had been proposed to be referenced in § 675.20(a), which was an error. It is now correctly referenced in § 672.20(a).

6. The target species category "other flatfish" had been proposed to be referenced in § 672.20(a), which was an error. It is now correctly referenced in § 675.20(a).

7. The standard PRR for Atka mackerel, headed and gutted western cut (code 7) is changed from 0.61 to 0.64, and the standard PRR for Atka mackerel, headed & gutted eastern cut (code 8) is changed from 0.64 to 0.61 to correct a transposition error in the proposed rule.

8. The product codes 95 for discards and 99 for dockside discards have been removed, because they serve no useful purpose.

Section 672.20(j)(3) is revised to limit the aggregate adjustments of any standard PRR during a calendar year that the Regional Director may make without providing opportunity for prior public comment to no more than 15 percent of the standard PRR specified for a preceding calendar year. Aggregate adjustments greater than 15 percent may be made after providing notice and opportunity for prior public comment.

Comments Received

NMFS received six letters of comments on the proposed rule. Some comments addressed standard PRRs for specific products (e.g., surimi and deep-skin fillets made from pollock). Other comments focused on concerns about being accountable for the standard PRRs that would be different from actual recovery rates.

Comment 1. A vessel that achieves an actual recovery rate for a product that varies from the standard PRR could be prosecuted for violating a directed fishing closure or Vessel Incentive Program (VIP) rate, or be subject to higher fees under the North Pacific Fisheries Research Plan (Research Plan), even though irrefutable evidence existed to demonstrate that the vessel's actual recovery rate was real.

Response. NMFS concurs that a vessel could be prosecuted as stated in the comment. A vessel may have to adjust the amounts of products retained onboard to comply with the regulations that depend on round-weight equivalents calculated from processed products. A vessel would not be in violation if it has amounts of products onboard that are consistent with standard PRRs. Although NMFS considered means by which a vessel could claim it was achieving a recovery rate that differed from a standard PRR at any particular time, NMFS does not have the ability to determine whether a vessel's claimed recovery rate was representative of its processing operations or whether it had claimed a particular recovery rate as a means of justifying amounts of fish onboard to avoid violations of directed fishing closures or VIP definitions, or being charged higher fees under the Research Plan.

Comment 2. A vessel that achieves higher recovery rate for a particular product receives no benefit under a program that uses standard PRRs, thereby discouraging the use of more efficient and productive equipment.

Response. Standard PRRs are used to determine the amount of fish caught because their use is the best practicable method of doing so available at this time. Economic incentives outside the regulatory management scheme exist for vessels to increase their product recovery efficiency. As overall fleet efficiency in producing any particular product increases, NMFS will revise the standard PRR for that product.

Comment 3. By establishing one standard PRR for each product form, the rule ignores seasonal, area, and vessel-by-vessel variation in actual recovery rates.

Response. NMFS has considered variation in determining that standard PRRs are necessary to enforce certain management measures. Where NMFS has been able to determine a variation in a PRR over a wide area or season, as in pollock used for surimi (See response to Comment 4, below.), a separate PRR is specified. NMFS does not have the means to account for vessel-by-vessel, seasonal, and area variations from a standard PRR that may occur at any particular time.

Comment 4. Proposed standard PRRs for certain products are inaccurate. These are listed as follows:

1. The standard PRR for pollock surimi of 0.14 is too low, given that data used by NMFS during the 1992 non-roe season reflected product recovery from small-sized pollock and that actual recovery rates achieved by vessels, by season, shows product recoveries that range from 0.12 to 0.30. Data from the 1993 fishery should be a more reliable source of information;

2. The standard PRR for deep skin pollock is too low, given that data submitted to NMFS suggest that the standard PRR is closer to 0.16 or even 0.18;

3. The standard PRR for headed-and-gutted Pacific cod is too low, given that other sources of published information indicate that the standard PRR should be in the range of 0.56–0.75 or 0.58–0.64; and

4. Other standard PRRs may be in error as well.

Response. With respect to the standard PRR for pollock surimi, NMFS

has reviewed 1993 production information on a seasonal basis and notes that the average recovery rate for the period January through June is 0.16 (see discussion under the section on Changes In the Final Rule From the Proposed Rule). The average recovery rate for the period July through December is 0.17. The final rule establishes these two recovery rates to accommodate seasonal differences.

NMFS has reviewed information with respect to PRRs for deep skin pollock and headed-and-gutted Pacific cod. Deep skin pollock is such a new product that few data exist to demonstrate the extent of annual variation. On the basis of information available, NMFS concludes that 0.13 is an appropriate standard PRR. With respect to headed-and-gutted Pacific cod, many independent observers' tests onboard vessels have demonstrated PRRs averaging 0.47 and 0.57, respectively, for eastern and western cut products made from Pacific cod. Other changes made to PRRs are as noted in the section on Changes In the Final Rule From the Proposed Rule for the reasons given. NMFS does not have information that indicates any of the other proposed standard PRRs are in error; therefore, NMFS is establishing them as proposed.

Comment 5. The 15 percent leeway provided to the Regional Director to make adjustments in standard PRRs without further rulemaking is inadequate.

Response. Changes in management measures sometimes have effects that are not anticipated. Notice-and-comment procedures provide the agency and the public the opportunity to determine what such effects might be. There is no limit to the change in a PRR that may be made in any one year. The Regional Director may make changes to a PRR without providing opportunity for prior public comment as long as the aggregate change in any one year does not exceed 15 percent. Changes to a PRR which, when aggregated with all other changes made during that same calendar year, are greater than 15 percent require notice and opportunity for prior public comment to ensure that all data and all possible effects are considered.

NMFS, having reviewed the purpose of this rule and comments received, has determined that it is necessary for fishery conservation and management. Standard PRRs, rather than recovery rates provided by vessel operators, are necessary to estimate the round-weight equivalent of retained species: (1) To assign vessels to fisheries for purposes of monitoring fishery specific bycatch allowances of prohibited species; (2) to monitor vessel compliance with fishery specific bycatch rate standards set forth under the VIP to reduce prohibited species bycatch rates; and (3) to calculate round-weight equivalents for purposes of assessing fees under the Research Plan. This rule is also necessary to promote compliance with regulations that prohibit pollock roe stripping as intended by the Magnuson Act.

Classification

The Alaska Region, NMFS, prepared a final regulatory flexibility analysis as part of the EA/RIR/FRFA, which concludes that this rule will have a significant economic impact on a substantial number of small entities. A copy of the EA/RIR/FRFA may be obtained from the Regional Director (see ADDRESSES).

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

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: September 29, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

2. In § 672.2, a new definition of "Round-weight equivalent" is added to read as follows:

§ 672.2 Definitions.

* * * * *

Round-weight equivalent means the weight of fish calculated by dividing the weight of the primary product made from that fish by the standard product recovery rate for that primary product as listed in § 672.20(j), or, if not listed, the weight of fish calculated by dividing the weight of a primary product by the standard product recovery rate as determined using the best available evidence on a case-by-case basis.

* * * * *

§ 672.20 General limitations.

* * * * *

(i) * * *

(3) Only the following product types and standard product recovery rates may be used to calculate round-weight equivalents for pollock for purposes of this subparagraph:

Product code	Product description	Standard product recovery rate
07	Headed and gutted, western cut.	0.65
08	Headed and gutted, eastern cut.	.56
10	Headed and gutted, without tail.	.50
20	Fillets with skin & ribs	.35
21	Fillets with skin on, no ribs	.30
22	Fillets with ribs no skin	.30
23	Fillets, skinless, boneless	.21
24	Deep skin fillets	.13
30	Surimi	.16
31	Mince	.22
32	Meal	.17

* * * * *

(j) *Standard product types and standard product recovery rates (PRRs)*—(1) *Calculating round-weight equivalents from standard PRRs.* Round-weight equivalents for groundfish products shall be calculated using the product codes and standard PRRs specified in Table 1 of this section.

(2) *Adjustments to Table 1 of this section.* The Regional Director may adjust standard PRRs and product types specified in Table 1 of this section if he determines that existing standard PRRs are inaccurate or if new product types are developed.

(3) *Procedure.* Adjustments to any standard PRR listed in Table 1 that are within and including 15 percent of that standard PRR may be made without providing notice and opportunity for prior public comment. Adjustments of any standard PRR during a calendar year, when aggregated with all other adjustments made during that year, may not exceed 15 percent of the standard PRR listed in Table 1 of this section at the beginning of that calendar year and no new product type may be announced until NMFS has published notice of the proposed adjustment and/or new product type in the **Federal Register** and provided the public with at least 30 days opportunity for public comment. Any adjustment of a PRR that acts to further restrict the fishery shall not be effective until 30 days after the date of publication in the **Federal Register**. If NMFS makes any adjustment or announcement without providing notice and opportunity for prior public comment, the Regional Director will receive public comments on the adjustment or announcement for a period of 15 days after its publication in the **Federal Register**.

TABLE 1 TO § 672.20.—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND/OR 50 CFR 675.20(a)(1)

FMP species	Species code	Product Code											
		1 Whole food fish	2 Whole bait fish	3 Bled	4 Gutted	6 Headed and gutted with roe	7 Headed and gutted western cut	8 Headed and gutted eastern cut	10 Headed and gutted w/o tail	11 Kirimi	12 Salted and split	13 Wings	14 Roe
Pacific cod	110	1.00	1.00	0.98	0.85	0.63	0.57	0.47	0.44	.....	0.45	.....	0.05
Arrowtooth flounder	121	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Rockfish [1]	.....	1.00	1.00	0.98	0.88	.....	0.60	0.50	.....	.....	.....	.....	.....
Sculpins	160	1.00	1.00	0.98	0.87	.....	0.50	0.40	.....	.....	.....	.....	.....
Atka mackerel	193	1.00	1.00	0.98	0.87	0.67	0.64	0.61	.....	.....	.....	.....	.....
Pollock	270	1.00	1.00	0.98	0.80	0.70	0.65	0.56	0.50	.....	.....	.....	0.04
Smelts	510	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
Eulachon	511	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
Capelin	516	1.00	1.00	0.98	0.89	.....	0.78	.....	.....	.....	.....	.....	.....
Sharks	689	1.00	1.00	0.98	0.83	.....	0.72	.....	.....	.....	.....	.....	.....
Skates	700	1.00	1.00	0.98	0.90	.....	.....	0.32	.....	.....	.....	0.32	.....
Sablefish	710	1.00	1.00	0.98	0.89	.....	0.68	0.63	0.50	.....	.....	.....	.....
Octopus	870	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....
Target Species Categories Only at 50 CFR 672.20(a)													
Deep water flatfish	118	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Flathead sole	122	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Rex sole	125	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Shallow water flatfish	119	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Thornyhead rockfish	143	1.00	1.00	0.98	0.88	0.55	0.60	0.50	.....	.....	.....	.....	.....
Target Species Categories Only at 50 CFR 675.20(a)													
Other flatfish	120	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Rock sole	123	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Yellowfin sole	127	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Greenland turbot	134	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
Squid	875	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....

[1] Rockfish means all species of *Sebastes* and *Sebastolobus*.

TABLE 1 TO § 672.20 (CONTINUED).—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(A)(1) AND/OR 675.20(A)(1)

FMP species	Species code	Product code												
		15 Pectoral girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets: With skin and ribs	21 Fillets: Skin on no ribs	22 Fillets: With ribs no skin	23 Fillets: Skinless/ boneless	24 Fillets: Deep skin	30 Surimi	31 Mince	32 Meal
Pacific cod	110	0.05	.....	0.05	.....	0.01	0.45	0.35	0.25	0.25	.....	0.15	0.50	0.17
Arrowtooth flounder	121	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Rockfish	.....	.....	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	.....	.....	.....	0.17
Sculpins	160	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
Atka mackerel	193	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.15	.....	0.17
Pollock	270	.....	0.15	.....	.....	.....	0.35	0.30	0.30	0.21	0.13	[1] 0.16 [2] 0.17	0.22	0.17
Smelts	510	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....	0.22
Eulachon	511	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....	0.22
Capelin	516	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.22
Sharks	689	.....	.....	.....	.....	.....	.....	0.30	0.30	0.25	.....	.....	.....	0.17
Skates	700	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
Sablefish	710	.....	.....	0.05	.....	.....	0.35	0.30	0.30	0.25	.....	.....	.....	0.22
Octopus	870	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17

TABLE 1 TO § 672.20 (CONTINUED).—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(A)(1) AND/OR 675.20(A)(1)—Continued

FMP species	Species code	Product code												
		15 Pectoral girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets: With skin and ribs	21 Fillets: Skin on no ribs	22 Fillets: With ribs no skin	23 Fillets: Skinless/ boneless	24 Fillets: Deep skin	30 Surimi	31 Mince	32 Meal
Target Species Categories Only at 50 CFR 672.20(a)														
Deep water flatfish	118	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Flathead sole	122	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Rex sole	125	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Shallow water flatfish	119	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Thornyhead rockfish	143	.....	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	.....	.....	.....	0.17
Target Species Categories Only at 50 CFR 675.20(a)														
Other flatfish	120	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Rock sole	123	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Yellowfin sole	127	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	0.18	.....	0.17
Greenland Turbot	134	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
Squid	875	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17

[1] Standard pollock surimi rate during January through June.
[2] Standard pollock surimi rate during July through December.

TABLE 1 TO § 672.20 (CONTINUED).—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND 50 CFR 675.20(a)(1)

FMP species	Species code	Product code						
		33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly backbone removed	96 Decomposed fish	98 At-sea discards
Pacific cod	110	.....	.....	.....	.....	0.43	0.00	1.00
Arrowtooth flounder	121	.....	.....	.....	.....	.....	0.00	1.00
Rockfish	.....	.....	.....	.....	.....	.....	0.00	1.00
Sculpins	160	.....	.....	.....	.....	.....	0.00	1.00
Atka mackerel	193	.....	.....	.....	.....	.....	0.00	1.00
Pollock	270	.....	.....	.....	.....	0.43	0.00	1.00
Smelts	510	.....	.....	.....	.....	.....	0.00	1.00
Eulachon	511	.....	.....	.....	.....	.....	0.00	1.00
Capelin	516	.....	.....	.....	.....	.....	0.00	1.00
Sharks	689	.....	.....	.....	.....	.....	0.00	1.00
Skates	700	.....	.....	.....	.....	.....	0.00	1.00
Sablefish	710	.....	.....	.....	.....	.....	0.00	1.00
Octopus	870	.....	.....	.....	0.85	1.00	0.00	1.00
Target Species Categories Only at 50 CFR 672.20(a)								
Deep water flatfish	118	.....	.....	.....	.....	.....	0.00	1.00
Flathead sole	122	.....	.....	.....	.....	.....	0.00	1.00
Rex sole	125	.....	.....	.....	.....	.....	0.00	1.00
Shallow water flatfish	119	.....	.....	.....	.....	.....	0.00	1.00
Thornyhead rockfish	143	.....	.....	.....	.....	.....	0.00	1.00
Target Species Categories Only at 50 CFR 675.20(a)								
Other flatfish	120	.....	.....	.....	.....	.....	0.00	1.00
Rock sole	123	.....	.....	.....	.....	.....	0.00	1.00
Yellowfin sole	127	.....	.....	.....	.....	.....	0.00	1.00

TABLE 1 TO § 672.20 (CONTINUED).—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND 50 CFR 675.20(a)(1)—Continued

FMP species	Species code	Product code						
		33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly backbone removed	96 Decomposed fish	98 At-sea discards
Greenland turbot	134	.....	.....	.....	.....	.....	0.00	1.00
Squid	875	.....	.....	.....	0.75	1.00	0.00	1.00

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for 50 CFR part 675 continues to read as follows:

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

5. In § 675.2, a new definition of "Round-weight equivalent" is added to read as follows:

§ 675.2 Definitions.

* * * * *

Round-weight equivalent means the weight of fish calculated by dividing the weight of the primary product made from that fish by the standard product recovery rate for that primary product as listed in § 672.20(j), or, if not listed, the weight of fish calculated by dividing the weight of a primary product by the standard product recovery rate as determined using the best available evidence on a case-by-case basis.

* * * * *

6. In § 675.20, paragraph (j)(4) is removed, paragraphs (j)(5)–(j)(7) are redesignated as paragraphs (j)(4)–(j)(6), paragraph (j)(3) is revised, and a new paragraph (k) is added to read as follows:

§ 675.20 General limitations.

* * * * *

(j) * * *

(3) Only the following product types and standard product recovery rates may be used to calculate round-weight equivalents for pollock for purposes of this subparagraph:

Product code	Product description	Standard product recovery rate
07	Headed and gutted, western cut.	0.65
08	Headed and gutted, eastern cut.	.56
10	Headed and gutted, without tail.	.50
20	Fillets with skin & ribs	.35
21	Fillets with skin on, no ribs	.30
22	Fillets with ribs no skin	.30
23	Fillets, skinless, boneless	.21
24	Deep skin fillets	.13
30	Surimi	.16
31	Mince	.22
32	Meal	.17

* * * * *

(k) *Standard product types and standard product recovery rates (PRRs).* Standard product types and standard PRRs pertaining to this section are governed by provisions set forth in § 672.20(j).

[FR Doc. 94–24637 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 192
Wednesday, October 5, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

RIN: 3206–AF91

Federal Employees Retirement System—Computation of the Basic Employee Death Benefit for Customs Officers

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations concerning the use of overtime and premium pay in determining the final annual rate of basic pay of customs officers under the Federal Employees Retirement System (FERS). These regulations would establish the methodology (similar to the one that OPM uses for other flexible schedule employees) that the employing agency will use to compute customs officers' "final annual rate of basic pay" for determining FERS "basic employee death benefit." The regulations are necessary to implement the changes in the statutory definition of basic pay under FERS made by section 13812 of the Omnibus Budget Reconciliation Act of 1993.

DATES: Comments must be received on or before December 5, 1994.

ADDRESSES: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement Policy Development; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Section 13812 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, amended section 8331(3) of title 5, United States Code, the definition of basic pay under the Civil Service Retirement System (CSRS), to include, as basic pay for CSRS computations, certain overtime pay for customs officers. Section 8401(4) of title 5, United States Code, provides that the CSRS definition of basic pay in section 8331(3) applies to the Federal Employees Retirement System (FERS). For customs officers, basic pay will include the regular pay under the general schedule, any applicable locality pay, and allowable overtime pay up to $12,500 per fiscal year. Basic pay is used to compute final salary for the basic employee death benefit under FERS.

For determining final salary, the employing agency will use a methodology similar to the one used for determining the "final annual rate of basic pay" of intermittent employees for the FERS basic employee death benefit established in § 843.102 of title 5, Code of Federal Regulations. The employing agency will determine the total number of hours for which the employee was paid two-times-hourly-rate overtime and the total number of hours for which the employee was paid three-times-hourly-rate overtime during the 52-week workyear ending the pay period before separation. The employing agency will then determine the amount of overtime pay that the employee would have received during the 52-week workyear if that overtime were paid at two or three times the employee's hourly rate (regular general schedule pay rate plus locality pay) at the time of death. The amount of allowable overtime is the lesser of the amount that would have been paid during that 52-week workyear using the employee's hourly rate (times the appropriate multiplier) at the time of separation or $12,500. The final salary is equal to the allowable overtime computed under the previous sentence, plus the final annual general schedule pay, plus locality pay.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 843

Administrative practice and procedure, Claims, Disability benefits, Government employees, Intergovernmental relations, Pensions, Reporting and recordkeeping, Retirement.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843.208 and 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

2. In the definition of "final annual rate of basic pay" in section 843.102, paragraph (d) is added to read as follows:

§ 843.102 Definitions

* * * * *

Final annual rate of basic pay * * *

(d) The annual pay for customs officers is the sum of the employee's general schedule pay, locality pay, and the lesser of—

(1) Two times the employee's final hourly rate of pay times the number of hours for which the employee was paid two times salary as compensation for overtime inspectional service under section 5(a) of the Act of February 11, 1911 (19 U.S.C. 261 and 267) plus three times the employee's final hourly rate of pay times the number of hours for which the employee was paid three times salary as compensation for overtime inspectional service under section 5(a) in the 52-week work year immediately preceding the end of the last pay period in which the employee was in pay status; or

(2) $12,500.

* * * * *

[FR Doc. 94–24455 Filed 10–4–94; 8:45 am]

BILLING CODE 6325–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 150

[Docket No. PRM-150-3]

Measurex Corporation, Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Measurex Corporation. The petition has been docketed by the Commission and has been assigned Docket No. PRM-150-3. The petitioner requests that the NRC amend its regulations governing Agreement State regulation of byproduct material to require Agreement States to notify the NRC of all proposed and completed regulatory actions. The petitioner also requests that the NRC amend its regulations governing rulemaking to require the NRC to publish Agreement State notices of proposed and completed rulemaking. The petitioner believes that these amendments would alert NRC and Agreement State licensees of applicable Agreement State requirements and permit them to more fully participate in the rulemaking process.

DATES: Submit comments by December 19, 1994. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-7163 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission (NRC) received a petition for rulemaking dated April 7, 1994, submitted by the Measurex Corporation. The petition was docketed as PRM-150-3 on April 12, 1994. The petitioner requests that the NRC amend its regulations in 10 CFR part 150 that govern Agreement State regulation of byproduct material. Specifically, the petitioner is seeking an amendment to 10 CFR 150.31 that will require Agreement States to notify the NRC of proposed and completed changes to that State's regulations. The petitioner is also seeking an amendment to 10 CFR part 2 that will require the NRC to publish Agreement State notices of proposed and completed rulemaking in the **Federal Register**.

The petitioner notes that current NRC requirements contained in 10 CFR 2.804 through 10 CFR 2.807 establish a procedure for the publication of proposed changes, participation by interested persons, and notification of changes, and believes that a less detailed set of rulemaking and notification procedures is specified for Agreement States in 10 CFR 150.31. The petitioner claims that the current rulemaking and notification procedure contained in 10 CFR 150.31 fails to provide a mechanism for persons located outside of any particular Agreement State to learn about proposed changes in that State's regulations. The petitioner believes that the legislative intent of 10 CFR 150.31 is to provide a mechanism for interested persons to participate in the rulemaking process. However, the petitioner claims that because there is no current notification procedure required for Agreement States, the petitioner and other persons do not have ample opportunity to participate in discussion of proposed rules.

The petitioner states that under both its specific license for device distribution issued by the Agreement State of California and the general license issued by other Agreement States, it is required to provide generally licensed device recipients with a copy of the applicable Agreement State regulations. The petitioner also indicates that although it makes a substantial effort to learn of proposed regulatory changes and to maintain current copies of NRC and Agreement State regulations, it is not always notified of actual changes that may directly affect it and its customers in Agreement States. The petitioner believes that the proposed amendments to 10 CFR Parts 2 and 150 would alert NRC and Agreement State licensees to all relevant Agreement State requirements and permit them to more fully participate in the rulemaking process.

The NRC is soliciting public comment on the petition for rulemaking submitted by Measurex Corporation that requests the changes to the regulations in 10 CFR Parts 2 and 150 as discussed below.

The Petitioner

The petitioner is a manufacturer, distributor, and supplier of service for process control sensors used by NRC licensees throughout the United States. The petitioner states that it and its customers are directly affected by regulations adopted by the NRC and Agreement States. The petitioner also states that both its specific license for device distribution issued by California, an Agreement State, and other Agreement State licenses require it to provide generally licensed recipients a copy of the applicable Agreement State regulations. For these reasons, the petitioner claims that it makes a considerable effort to learn of proposed regulatory changes and to maintain current copies of NRC and Agreement State regulations.

The petitioner indicates that it is submitting this petition for rulemaking to amend 10 CFR Parts 2 and 150 because it believes that the current regulations completely fail to provide a mechanism for persons located outside any particular Agreement State to learn about proposed and completed changes to that State's regulations. The petitioner believes that because there is no adequate mechanism to keep NRC licensees aware of current Agreement State regulations, it is unable to fully participate in discussion of proposed rules and is often unaware of actual regulatory changes that directly affect it and its customers in Agreement States.

Discussion of the Petition

The petitioner has submitted this petition for rulemaking because it believes that it is adversely affected by the current regulations that do not provide an adequate mechanism for NRC licensees to learn about proposed and adopted changes in applicable Agreement State regulations. The petitioner states that although the current NRC regulations in 10 CFR 2.804 through 2.807 establish a procedure for the notification and publication of regulatory changes and participation by interested persons, it believes that a less detailed set of rulemaking and notification procedures

is specified for Agreement States in 10 CFR 150.31.

The petitioner's primary concern is that it and other NRC licensees are not always notified of proposed and completed changes in Agreement State regulations that can directly affect themselves and their customers in Agreement States. The petitioner is also concerned that because it is often not aware of Agreement State regulatory actions, it does not have the opportunity to fully participate in the rulemaking process as is intended by NRC regulations. As part of its petition for rulemaking, the petitioner has included copies of various correspondence with Agreement State radiation control boards and the NRC, and cites specific cases in the Agreement States of Oregon and Texas that it believes will illustrate that the current rules are undaly burdensome, deficient, and in need of strengthening. For example, in Oregon, regulatory changes are proposed that would eliminate the general license authorizing the petitioner to install, transfer, demonstrate, or provide service and would require the petitioner to obtain a specific license from Oregon in order to conduct business.

If these proposed regulations are adopted, the petitioner states that it will be able to ship sensors to a customer in Oregon only after confirming that the customer has an appropriate specific license. The petitioner is concerned not only that the proposed regulations would impose additional burdens and costs on it and its customers in conducting business in Oregon, but also that it was not provided ample opportunity to comment on the proposed rules or to participate in the rulemaking process.

Although the petitioner attempted to learn about any proposed or adopted regulatory changes by writing to the Oregon Radiation Control Section on several occasions between June 1991 and January 1994, it did not receive a response. The lack of response led the petitioner to believe that Oregon had not modified its 1987 radiological control regulations even though the current version of the Oregon *Administrative Rules for the Control of Radiation* was adopted in 1991. The petitioner stated that it only became aware of the changes in Oregon's notification requirements in February 1994 when informally contacted by an out-of-state health physics colleague.

The petitioner also described a case in which it did not learn of regulatory modifications adopted by the Agreement State of Texas in 1993 until after the rules became effective. These regulations govern distribution and service involving generally licensed devices. The petitioner claims that the new requirements are costly and administratively burdensome and again expressed the concern that it was not able to participate in discussions of proposed rules that affect it and its customers before the rules became effective.

The petitioner acknowledges that although some State's radiation control agencies are conscientious in notifying out-of-state distributors or service groups about proposed and completed regulatory changes, many do not make such an effort. For these reasons, the petitioner indicates that it and other firms have no way of knowing when copies of a State's regulations are no longer valid and, consequently, have no opportunity to participate in the rulemaking process. The petitioner stated that its efforts to gain information regarding Agreement State regulatory changes are costly, time-consuming, and often ineffective.

To alleviate this situation, the petitioner proposes that 10 CFR 150.31 be amended to require Agreement States to notify the NRC of any proposed regulatory actions and that 10 CFR Part 2 be amended to require the NRC to publish the Agreement State notices of proposed regulatory actions in the **Federal Register**.

The NRC staff would like to inform the readers that 10 CFR 150.31 applies only to 11e(2) byproduct material (tailings and other wastes generated from the milling of ores primarily for their source material content) and reflects statutory requirements in the Uranium Mill Tailings Radiation Control Act of 1978, as amended. Similar requirements could be developed to apply to other byproduct material. In order to avoid confusion with the requirements for 11e(2) byproduct material, the proper location for these new requirements would need to be considered in the development of any new section in Part 150.

The Petitioner's Proposed Amendment

The petitioner requests that 10 CFR Parts 150 and 2 be amended to overcome the problems the petitioner has itemized and recommends the following revisions to the regulations:

1. The petitioner proposes that § 150.31 be amended by redesignating existing paragraph (c) as paragraph (d), redesignating existing paragraph (d) as paragraph (e), and adding a new paragraph (c) to read as follows:

Section 150.31 Requirements for Agreement State Regulation of Byproduct Material

* * * * *

(c) After [date], in the licensing and regulation of byproduct material, as defined in § 150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require compliance with procedures which:

(1) Include the requirements of paragraph (b) of this section, and

(2) In the case of rulemaking also include:

(i) Except as provided by paragraph (c)(2)(iv) of this section, when it proposes to adopt, amend, or repeal a regulation, shall submit notice of the proposed change to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Service Branch.

(ii) The notice will include:

(A) Either the terms or substance of the proposed rule, or a specification of the subjects and issues involved;

(B) The manner, time, and place within which interested members of the public may comment, and a statement of where and when copies of such comments may be examined.

(C) The authority under which the regulation is proposed; and

(D) The time, place, and nature of the public hearing, if any.

(iii) The notice required in paragraph (c)(2)(i) of this section will be made not less than [number to be determined] days prior to the time fixed for hearing, if any, unless the Agreement State for good cause stated in the notice provides otherwise.

(iv) The notice and comment provisions contained in paragraph (c)(2)(i), (ii), and (iii) of this section will not be required to be applied—

(A) To interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) When the Agreement State for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest, and are not required by statute. This finding, and the reasons therefor, will be incorporated into any rule issued without notice and comment for good cause.

(v) The Agreement State shall provide for a 30-day post-promulgation comment period for—

(A) Any rule adopted without notice and comment under the good cause exception in paragraph (c)(2)(iv)(B) of this section where the basis is that notice and comment is "impracticable" or "contrary to the public interest;" or

(B) Any interpretive rule, or general statement of policy adopted without notice and comment under paragraph (c)(2)(iv)(A) of this section, except for those cases for which the Agreement State finds that such procedures would serve no public interest, or would be so burdensome as to outweigh any foreseeable gain.

(vi) For any post-promulgation comments received under paragraph (c)(2)(v) of this section, the Agreement State shall submit a statement to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Service Branch. This statement shall contain an evaluation of the significant comments and any revisions of the rule or policy statement made as a result of the comments and their evaluation.

(vii) The Agreement State will afford interested persons an opportunity to participate through the submission of statements, information, opinions, and arguments in the manner stated in the notice. The Agreement State may grant additional reasonable opportunity for the submission of comments.

(viii) The Agreement State may hold informal hearings at which interested persons may be heard, adopting procedures which in its judgment will best serve the purpose of the hearing.

(ix) When it has adopted, amended, or repealed a regulation, the Agreement State will submit notice of the action to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Service Branch.

(x) The notice of adoption, amendment, or repeal of a regulation provided by an Agreement State to fulfill the requirements of paragraph (c)(2)(ix) of this section will specify the effective date and include a concise general statement of the basis and purpose of the change. Such notice will be made not less than [number of days to be determined] days prior to the effective date, unless the Agreement State directs otherwise on good cause found and included in the notice of rulemaking provided in fulfillment of paragraph (c)(2)(x) of this section.

* * * * *

2. The petitioner proposes that 10 CFR Part 2 be amended to add a § 2.810 to read as follows:

Section 2.810 Notice of Proposed Rulemaking by Agreement States

(a) When the Commission, in fulfillment of the requirements of § 150.31(c)(2)(i) of this chapter, receives Agreement State notice of a proposal to adopt, amend, or repeal a regulation, it will cause the notice to be published in the **Federal Register**. The publication of this notice will be made not less than fifteen (15) days prior to the time fixed for hearing, if any.

(b) When the Commission, in fulfillment of the requirements of § 150.31(c)(2)(vi) of this chapter, receives an Agreement State statement of post-promulgation comments, it will cause the statement to be published in the **Federal Register**.

(c) When the Commission, in fulfillment of the requirements of § 150.31(c)(2)(ix) of this chapter, receives an Agreement State notice of the adoption, amendment, or repeal of regulations, it will cause the notice, including the effective date, to be published in the **Federal Register**.

Dated at Rockville, Maryland, this 30th day of September, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–24652 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1994—14]

Communications Disclaimer Requirements

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comments to help determine whether changes in its regulations governing disclaimers on campaign communications are warranted. The current rules require a disclaimer notice on communications by any person that expressly advocate the election or defeat of a clearly identified candidate, or solicit contributions, through any form of general public political advertising. One proposed change would create a presumption that communications by authorized political committees or political party committees that refer to a clearly identified federal candidate are express advocacy, thereby triggering the disclaimer requirement. Other modifications would clarify that oral disclaimers are required under appropriate circumstances; clarify how these requirements apply to coordinated party expenditures; broadly define "direct mail" in this context; require a disclaimer on all communications included in a package of materials that are intended for separate distribution; and clarify the meaning of "clear and conspicuous" as that term is used in these rules.

DATES: Comments must be received on or before December 5, 1994. Persons wishing to testify at a hearing on these rules should so indicate in their written comments. If sufficient requests to testify are received, the Commission will announce the date of the hearing in a separate notice.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC-20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act ["FECA" or "the Act"] at 2 U.S.C. 441d(a) requires a disclaimer on communications by any person that expressly advocate the election or defeat of a clearly identified federal candidate, or solicit contributions, through any form of general public political advertising. The Commission is proposing to revise the implementing regulations, found at 11 CFR 110.11, to address issues that have arisen since the rules were last amended, and to clarify their scope and applicability.

New Definition

Proposed 11 CFR 110.11(a) includes a definition for the term "direct mailing." For purposes of these requirements, "direct mailing" would be broadly defined to include any number of substantially similar pieces of mail, except for mailings of fifty pieces or less, by any person. The definition would exclude permissible activities by a corporation or labor organization communicating with a restricted class under 11 CFR 114.3 or 114.5, because such activities do not involve general public political advertising.

Express Advocacy

The current disclaimer requirements were enacted as part of the 1976 amendments to the Federal Election Campaign Act. They replaced those contained in former 18 U.S.C. 612, a broadly-worded criminal code provision that required identifying information to be included on any political statement published, mailed or distributed on behalf of a federal candidate.

The present statutory and regulatory language applies to communications that expressly advocate the election or defeat of a clearly identified federal candidate, a standard the Supreme Court held in *Buckley* v. *Valeo*, 424 U.S.

1, 80 (1976), to be constitutionally mandated for the disclosure of expenditures by individuals and groups that are not candidates or political committees. 424 U.S. at 80. However, neither *Buckley* nor other pertinent case law prohibits the imposition of further requirements on communications made by candidates and political committees. It is the Commission's experience that an inordinate amount of Commission time and resources are diverted to the question of whether a campaign mailing or advertisement paid for by a candidate constituted "express advocacy" and therefore required a disclaimer.

Since political committees are in the business of electing candidates to political office, the Commission believes it is appropriate for them to be subject to a different standard under section 441d(a) in certain circumstances. The Commission is therefore proposing to include in the regulatory text a presumption that all communications by authorized political committees, or by party political committees, that refer to a clearly identified federal candidate contain express advocacy, and thus trigger the section 441d(a) disclaimer requirements. This interpretation would further a major goal of the FECA, that of more complete disclosure on political communications directed to the general public. It would also eliminate problems that have arisen in determining whether specific communications contain "express advocacy" in this context.

This presumption would be rebuttable, since certain communications, e.g., those limited to one candidate's placing a newspaper ad offering another sympathy on a bereavement, are clearly not election advocacy. The Commission welcomes comments on the advisability of adopting this presumption, as well as suggested alternatives to and/or specific exemptions from the presumption.

Alternatively, the Commission is soliciting comments on whether the statutory language should be interpreted to require disclaimers on all communications by political committees, whether or not they include express advocacy. This, too, would further the disclosure aims of the Act, as well as eliminate possible problems in determining whether the "express advocacy" standard has been met.

Party Political Committee Communications

The Commission is also seeking comments on whether the required authorization statement should be dropped or modified for communications and solicitations that refer to a clearly identified federal candidate, made by political party committees prior to the time the party's candidate is nominated. There are several possible approaches to this issue. One option would be for such communications to state only who paid for the communication. Please note that this would not change the Commission's long-standing conclusion that such communications may count against the committee's coordinated party expenditure limits.

If a state or national party committee chooses not to make the coordinated expenditures permitted by section 441a(d), it may assign its right to make those expenditures to a designated agent, such as the senatorial campaign committee of the party. *FEC* v. *Democratic Senatorial Campaign Committee*, 454 U.S. 27 (1981). The proposed rules would clarify that the disclaimer on a communication made as a coordinated party expenditure should identify the committee that made the actual expenditure as the person who paid for the communication, regardless of whether that committee was acting as a designated agent or in its own capacity.

Unauthorized Committee Solicitations That Mention Candidates

While the Act requires communications by unauthorized committees to state both who paid for the communication and whether it was authorized by any candidate or candidate's committee, the text of the current rule does not include the second requirement for unauthorized committee solicitations. The proposed rule would clarify that an authorization statement would be required if the solicitation refers to a clearly identified federal candidate.

The "Clear and Conspicuous" Requirement

The proposal would provide guidance on the meaning of the term "clear and conspicuous" as that phrase is used in current 11 CFR 110.11(a)(1) and proposed paragraph 110.11(c). The Commission recently completed a rulemaking revising its regulations on the FECA's requirement that treasurers of political committees exercise best efforts to obtain, maintain, and report the complete identification of each contributor whose contributions aggregate more than $200 per calendar year. 2 U.S.C. 432(i), 11 CFR 104.7. See 58 FR 57725 (Oct. 27. 1993). For purposes of that rulemaking, a required notice to contributors is stated not to be "clear and conspicuous" if it is in small type in comparison to the remainder of the material, or if the printing is difficult to read or if the placement is easily overlooked. 11 CFR 104.7(b)(1), 58 FR 57729. This NPRM proposes the same language with regard to the disclaimers covered by this section.

Oral Disclaimers

The draft rules would clarify that oral communications and solicitations must meet the same disclaimer requirements as their written counterparts. The Act does not distinguish between written and oral communications. The Commission held in Advisory Opinion 1988–1 that oral disclaimers were not required as part of phone bank campaign communications with express advocacy content. The draft rules would supersede this opinion. This approach is consistent with the Commission's recently-adopted "best efforts" rules, which require at 11 CFR 104.7(b)(2) that both written and oral follow-up requests for contributor identification information include a required statement.

Packaged Materials

The proposal would clarify that a separate disclaimer is required on all communications included in a package of materials if the communications are intended for separate public distribution. In the past, questions have arisen as to whether a single disclaimer per package would satisfy the purposes of this requirement. All items intended for separate distribution (e.g., a poster included in a package of campaign handouts) would be covered by this requirement.

Exceptions

The current rules at paragraph 110.11(a)(2) exempt from the disclaimer requirement small items, such as pins, buttons, or pens; and "impractical" items, such as watertowers and skywriting. The Commission is proposing in paragraph (b)(1)(i) to add to these exempted items checks, receipts and similar items of minimal value that do not contain a political message and that are used for purely administrative purposes. Also, the question has at times arisen as to whether the "impractical" exception applies to wearing apparel, such as T-shirts or baseball caps, that contain a political message. This Notice proposes no language requiring a disclaimer on such material. However, if commenters believe the Commission should consider a disclaimer requirement for such materials, the Commission would encourage suggestions for practical application of such a requirement.

Disbursements by Candidates or Party Committees for Exempt Activity

The Commission is proposing language that would require a disclaimer on a communication by a candidate or party committee that qualifies as an exempt activity though on behalf of a clearly identified federal candidate. This would ensure that a disclaimer is included on all communications, including those which qualify as exempt activities by state and local party committees or candidates under the Act. See 2 U.S.C. 431(8)(B)(v), (x), (xi), and (xii).

This proposed amendment is consistent with the Act's interest in full disclosure of who authorized and paid for campaign communications. The Commission welcomes comments on this approach.

Comments are invited on any of the specific amendments discussed above, as well as any related issues that might relate to this topic.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that any affected entities are already required to comply with the Act's requirements in this area.

List of Subjects in 11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

For reasons set out in the preamble it is proposed to amend Subchapter A, chapter I of Title 11 of the Code of Federal Regulations as follows:

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

1. The authority citation would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, and 441h.

2. Part 110 would be amended by revising section 110.11 to read as follows:

§ 110.11 Communications; advertising.

(a) *Definition.* For purposes of paragraph (b)(1) of this section only, "direct mailing" includes any number of substantially similar pieces of mail but does not include:

(1) a mailing of fifty pieces or less by any person; or

(2) mailings by a corporation or labor organization to the corporation's or labor organization's restricted class under 11 CFR 114.3 or 114.5.

(b)(1) (i) *General Rule.* Except as otherwise provided in this section, whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate or that solicits any contribution, through any broadcast station, phone bank, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or other form of general public political advertising, that communication or solicitation shall clearly state who paid for it. If authorized by a candidate, an authorized committee of a candidate or an agent thereof, but paid for by some other person, the communication or solicitation shall clearly state that it is authorized by such candidate, authorized committee, or agent. If not authorized by a candidate, authorized committee of a candidate or its agent, the communication or solicitation shall clearly state that it is not authorized by any candidate, candidate's committee, or agent. For purposes of this paragraph, it is presumed that a communication or solicitation by a political committee that refers to a clearly identified federal candidate contains express advocacy.

(ii) *Exceptions.* The requirements of paragraph (b)(1)(i) of this section do not apply to:

(A) bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed;

(B) skywriting, watertowers or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable;

(C) checks, receipts and similar items of minimal value which do not contain a political message and which are used for purely administrative purposes; or

(D) communications by a corporation or labor organization to the corporation's or labor organization's restricted class under 11 CFR 114.3 and 114.5.

(2) For a communication or solicitation paid for by a party committee pursuant to 2 U.S.C. 441a(d), the disclaimer required by paragraph (b)(1)(i) of this section shall identify the committee that makes the expenditure as the person who paid for the communication, regardless of whether the committee was acting in its own capacity or as the designated agent of another committee.

(3) A solicitation other than one covered by paragraph (b)(1)(ii)(D) of this section by an unauthorized political committee that does not refer to a clearly identified federal candidate need only state who paid for it.

(4) For purposes of paragraphs (b)(1)(i) of this section, the term "expenditure" includes a communication by a candidate or party committee that qualifies as an exempt activity under 11 CFR 100.8(b) (10), (16), (17), or (18).

(c) *Placement of Disclaimer.* The disclaimers specified in paragraph (b)(1)(i) of this section shall be presented in a clear and conspicuous manner, to give the reader, observer or listener adequate notice of the identity of the person or committee that paid for, and, where required, that authorized the communication. A disclaimer is not clear and conspicuous if it is in small type in comparison to the rest of the printed material, or if the printing is difficult to read or if the placement is easily overlooked.

(1) The disclaimer need not appear on the front or cover page of the communication as long as it appears within the communication, except on communications, such as billboards, that contain only a front face.

(2) Each communication that is included in a package of materials but that is also intended for separate public distribution shall include a disclaimer.

(d) (1) *Newspaper or magazine space.* No person who sells space in a newspaper or magazine to a candidate, an authorized committee of a candidate, or an agent of the candidate, for use in connection with the candidate's campaign for nomination or for election, shall charge an amount for space which exceeds the comparable rate for the space for non-campaign purposes.

(2) For purposes of this section, "comparable rate" means the rate charged to a national or general rate advertiser, and shall include discount privileges usually and normally available to a national or general rate advertiser.

Dated: September 30, 1994

Trevor Potter,

Chairman.

[FR Doc. 94–24622 Filed 10–4–94; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AB46

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) is seeking comment on whether the deposit-insurance assessment base currently provided for in the FDIC's assessments regulations should be redefined and, if so, how. Because of recent statutory amendments and other developments affecting insured depository institutions, the Board believes review of the assessment-base definition is desirable at this time. The FDIC will carefully consider comments received in response to this Advance Notice of Proposed Rulemaking (Notice) in determining whether revision of the assessment base is warranted. If the Board finds revision to be warranted, it will propose specific amendments on which public comment will then be invited.

DATES: Written comments must be received by the FDIC on or before February 2, 1995.

ADDRESSES: Written comments are to be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550—17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to Room F–400, 1776 F Street, NW, Washington, DC 20429, on business days between 8:30 a.m. and 5 p.m. (FAX number: (202) 898–3838). Comments will be available for inspection in room 7118, 550—17th Street, NW, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: William Farrell, Chief, Assessment Management Section, Division of Finance, (703) 516–5546; Christine Blair, Financial Economist, Division of Research and Statistics, (202) 898–3936; Martha Coulter, Counsel, Legal Division (202) 898–7348; Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

The insurance premiums paid by an insured depository institution to the FDIC are calculated by multiplying the institution's assessment base by its assessment rate. At present, an institution's assessment base equals its total domestic deposits, as adjusted for certain elements. 12 CFR 327.4(b).

Prior to January 1, 1994, the assessment base was defined by section 7(b) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1817(b). In amending section 7(b) to require the establishment of a risk-based deposit insurance system, section 302 of the Federal Deposit Insurance Corporation Improvement Act (FDICIA) (Pub. L. 102–242, 105 Stat. 2236, 2345) removed the statutory assessment-base provisions. As a result, effective January 1, 1994, the assessment base is now governed by the FDIC by regulation. At present, the FDIC's assessment-base regulations continue to be based on the former statutory provisions.

In light of the recent transition to a risk-based deposit insurance system, the FDIC believes that it is desirable to review the existing assessment base. In the Board's view, it is important to determine whether the existing definition or some alternative definition more effectively furthers the purposes of the new deposit insurance system. In addition, a number of other significant developments in the financial services industry in recent years—including substantially higher deposit insurance rates and the resulting heightened awareness of insurance assessments, significant changes in the activities of insured depository institutions, adjustments in federal failure-resolution policies, and Congressional adoption of "depositor preference" requirements—also support the desirability of such a review.

Through this Notice, the FDIC seeks comment from all interested persons as to whether the assessment base should be redefined and, if so, how. The FDIC believes that it is important to review the definition of the assessment base from as many different perspectives as possible. Accordingly, this Notice poses various specific questions on which comment is sought. Commenters are requested to identify the question number to which their respective responses correspond. Questions need not be repeated, and interested persons are invited to respond to as many questions as they wish. Further, comment is requested on issues not specifically addressed in this Notice but which a prospective commenter considers pertinent to the definition of the assessment base.

The FDIC will carefully review and consider the comments received in response to this Notice in determining whether to propose a regulatory amendment redefining the assessment base. Should the Board decide that such an amendment is warranted, it will issue a proposal to adopt specific changes to the assessments regulations and seek public comment on that proposal.

II. Background

The assessment base has remained substantially unchanged since 1935. Historically, the assessment base for banks and thrift institutions has been defined, broadly stated, as total domestic deposits. The existing assessment base, as defined in 12 CFR 327.4(b), begins with the amount of the "demand deposits" and "time and savings deposits" reported by an insured institution in its quarterly Report of Condition.[1] From these amounts, the regulations provide for additions and subtractions.

Among the additions to "demand deposits" and "time and savings deposits" are adjustments for unposted credits. Among the subtractions are adjustments for unposted debits; pass-through reserve balances; a 16⅔ percent "float" allowance for demand deposits and a 1 percent "float" allowance for time and savings deposits; and the amount of any liabilities arising from depository institution investment contracts under section 11(a)(8) of the FDI Act.[2]

Until 1993, the premium rate by which an institution's assessment base was multiplied to determine its assessment payment was the same for all banks and the same for all thrifts. Beginning in January 1993, each institution is now assigned an assessment rate based on the risk that institution poses to its deposit insurance fund.

As assessment rates have risen over the past few years, deposit insurance premiums have become a significant expense item for insured depository institutions. The expense factor has resulted in institutions and their depositors questioning the relevance of the existing assessment base in the current environment. In addition, increased rates have caused some institutions to take deliberate steps to decrease their assessments by temporarily reducing their deposits at quarter end.

Also in recent years, there have been significant changes in the activities of insured depository institutions, in terms of reported assets and liabilities as well as off-balance-sheet operations (including derivative products such as options, swaps, interest-rate and

[1] For banks, this report is called the Report of Income and Condition; for thrift institutions, the Thrift Financial Report; and for insured branches of foreign banks, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[2] Subtraction for the last item, or certain so-called "BIC" liabilities, was included by an amendment to 12 CFR 327.4(b) effective July 11, 1994. See 59 FR 29714 (June 9, 1994).

The remaining adjustments provided for in 12 CFR 327.4(b) (such as additions for demand deposits that represent uninvested trust funds) are technical in nature and are included to adapt certain elements of the Reports of Condition for assessment purposes.

foreign-exchange-rate contracts). Such changes, which to some extent have eroded the historical connection between deposits and lending, give rise to the question of whether total domestic deposits continues to be a meaningful definition for the assessment base. Other relevant developments include adjustments in federal failure-resolution policies and the adoption of "depositor preference" requirements.

This section discusses the applicability of these developments to the question of whether the assessment base should be redefined. The areas addressed in this regard are the role of the assessment base in the risk-related deposit insurance system, the assessment-avoidance problem, failure-resolution policies, and depositor preference. The following discussions on these topics identify what the FDIC believes to be important issues that merit careful consideration in deciding on an assessment-base definition. Comment is requested with regard to how the assessment base should be defined in order to address these and other issues in an appropriate manner.

Before turning to these topics, however, the FDIC wishes to stress that, in reviewing the definition of the assessment base, it is not the FDIC's intent to change the total dollar amount of assessments collected. Instead, the goal is to select an assessment base that best suits the purposes of federal deposit insurance. To the extent any decrease or increase in assessment income is warranted, the FDIC anticipates that it would achieve that decrease or increase by changing the assessment rates, and not by redefining the assessment base. In short, the amount of total assessment collections a particular assessment base definition would yield (assuming no change in the assessment rates) is not a criterion the FDIC intends to apply in deciding on an assessment-base definition, since assessment collections can be fairly readily adjusted by changing assessment rates.

While the FDIC does not intend any redefinition of the assessment base to have a significant impact on the total amount of assessments industry-wide, there is a potential for significant change in the assessments paid on an institution-by-institution basis. Depending on the type of activities in which a particular institution is engaged, and the type of products and services it offers, a change in the assessment base could have a significant effect on the amount of the assessments it pays

A. Risk-Based Assessment System

Section 302 of FDICIA amended section 7 of the FDI Act to require that the FDIC establish a risk-based assessment system. Under the system mandated by FDICIA, the amount of an institution's assessment is to be based on the likelihood that its deposit insurance fund will incur a loss with respect to the institution, the likely amount of any such loss, and the revenue needs of the insurance funds. Under the risk-based system adopted by the FDIC pursuant to section 302, the rate component of the insurance system was changed from a single, flat rate applicable to all banks and a single, flat rate applicable to all thrift institutions to a risk-based rate structure.

Having already addressed the rate component of the new risk-based assessment system in previous rulemaking proceedings, the FDIC is now turning its attention to the assessment-base component. This Notice does not revisit the matter of the rate structure.

At present, the assessment-base component of the risk-based system remains unchanged from the form required by statute for the former flat-rate insurance system. One issue to be considered in connection with whether the assessment base should now be changed is how and to what extent the assessment base should reflect the risk factors identified in section 7(b) of the FDI Act, as amended by section 302 of FDICIA.

For example, among the risks identified in section 7(b) are those attributable to "different categories and concentrations of liabilities, both insured and uninsured * * *." 12 U.S.C. 1817(b)(1)(C)(i)(II). One area of risk taken into account in the existing assessment base is that involving deposit liabilities. Potentially, the assessment base could be modified to take into account other "categories" of liabilities, such as non-deposit, secured liabilities. This example is discussed more fully in paragraph C of section IV, below.

B. Assessment Avoidance

Whatever assessment base is applied, the FDIC believes that, in order to avoid imposing any additional regulatory burden on insured institutions, it is desirable to continue to collect assessment data from institutions in their quarterly Reports of Condition. If the assessment-base definition is changed, the information collected for assessment purposes by the Reports of Condition might also need to be changed.

At present, the data collected in these reports reflect amounts "as of" the report date. This has caused some institutions purposefully to reduce their assessment expenses by temporarily reducing the amount of the deposits held on the report date.

It has been suggested that defining the assessment base in terms of a daily average over the quarter (that is, total dollars for the quarter divided by the number of days in the quarter), rather than actual "as of" report-date data, would mitigate this assessment-avoidance problem. An averaging approach would also help to smooth out the effects of unusual occurrences such as misdirected wire transfers and the receipt, on or just before the report date, of abnormally large deposits to be held only briefly by an institution.

C. Failure-Resolution Policies

In past years, governmental policies for resolving failed or failing depository institutions frequently provided protection for liabilities not specifically covered by federal deposit insurance. First, through the use of all-deposit purchase-and-assumption (P&A) transactions, all depositors—insured and uninsured alike—often received full protection for their deposit balances. Unlike a deposit payoff or an insured-deposit transfer, in which only insured deposits were covered (and which were used only when there was no acceptable bid for an all-deposit P&A), the all-deposit P&A allowed for *de facto* 100-percent insurance protection. The protection of all depositors in the resolution of several large bank failures contributed to the perception that some banks were "too big to fail" and thus eligible for *de facto* 100-percent insurance protection for all deposits, both domestic and foreign.

While the use of all-deposit P&As and application of the so-called "too big to fail" doctrine often resulted in protection for liabilities beyond the statutory limit for deposit insurance coverage, in all such cases it did so in satisfaction of a cost test or for clear policy objectives such as maintaining the stability of, and public confidence in, the banking system. Specifically, the FDI Act required that, subject to an "essentiality" exception, the resolution of an institution be no more costly to the FDIC than its liquidation. Hence, the FDIC could normally effect an all-deposit P&A only if the purchase premium paid by the acquirer for the transaction offset the additional cost to the FDIC of protecting uninsured liabilities, in comparison with the cost of a liquidation. In the handful of "too big to fail" cases where this cost test

was not met, the FDIC acted under a statutory exception to the cost test based on the "essentiality" of the failing institution to the marketplace. That exception was used only in a small minority of the total number of resolutions the FDIC effected.

Still, the *de facto* protection of uninsured liabilities fueled the argument that such protected liabilities should be assessed. Since the assessment base already consisted (as it still does) generally of total domestic deposits, the universe of non-assessed liabilities was limited to foreign deposits and non-deposit liabilities.

Section 141(a) of FDICIA amended section 13(c) of the FDI Act to impose a revised test for failure resolution. Instead of requiring that the resolution be no more costly than liquidation, the new test requires use of the resolution method that is least costly to the affected deposit insurance fund. Provisions for present-value analyses and documentation are specified in order to determine the least-costly resolution method. The FDIC may not protect uninsured deposits unless it is less costly to provide such protection than not to do so. Further, the FDIC is prohibited from pursuing any action, directly or indirectly, that would have the effect of increasing losses to the insurance fund by protecting foreign deposits (generally meaning deposits payable only outside the United States). Hence, all-deposit P&A transactions are still permitted, provided the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if they had not been assumed by the acquirer.

The perceived "too big to fail" doctrine has been replaced by a new statutory exception for situations involving "systemic risk". In such cases—as determined by consensus among the FDIC, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury (in consultation with the President)—the FDIC may take action or provide assistance as necessary to avoid or mitigate the systemic effects of failure. However, the FDIC is required to recover the losses incurred under the systemic risk exception through one or more special assessments on the members of the affected insurance fund. As yet, this exception has not been used.

The net result going forward is that for any individual resolution, protection will be provided only for insured deposits unless it is less costly to protect uninsured deposits as well. In any instance (expected to be quite rare) in which the "systemic risk" exception might be triggered, the FDIC is required to recover the loss to the applicable deposit insurance fund by means of a special assessment on the members of that fund.

It has been argued in the past that the assessment base should be expanded beyond total domestic deposits in order to conform the base to the actual protections provided by the FDIC under the failure-resolution policies. However, many now believe that, given the new failure-resolution policies, this rationale for expanding the base has been weakened. (Of course, a shrinking of the assessment base might be viewed as warranted under the failure-resolution requirements, or an expansion might be warranted for other reasons.)

D. Depositor Preference

In August 1993, Congress enacted legislation establishing the priority order for payment on claims against an institution in receivership. As amended by this legislation, section 11(d)(11) of the FDI Act now provides for the priority of deposit liabilities of the institution over other general or senior liabilities. (Subject to the cross-guarantee provisions of section 5(e) of the FDI Act, claims with priority over deposit liabilities are secured claims to the extent of the security, and administrative expenses of the receiver.) This situation raises the question of whether, or to what extent, the assessment base should reflect the protection granted by this provision to uninsured deposits.

III. Analytical Framework

A. Evaluation Criteria

It is the FDIC's intention to apply an assessment base definition that addresses the requirements of the deposit insurance program over the long run, rather than one designed only to respond to the current conditions in the banking industry. To this end, the FDIC has identified certain characteristics that it believes can be used as criteria for analyzing and comparing alternative definitions. These criteria, which address the issues and concerns discussed in the preceding section, are outlined below. They are applied in the final section of this Notice as a framework for analyzing various alternative assessment-base definitions.

In the questions at the end of this section, comment is sought on the usefulness of these criteria in selecting an assessment-base definition, as well as on whether additional or alternative criteria should be applied.

1. Fairness

This criterion refers to the extent to which institutions are neither systematically favored nor systematically disadvantaged due to factors such as size and geographic location. Under this concept of fairness, similar institutions operating under similar circumstances, and representing similar risks of failure and magnitude of potential loss to the insurance fund, would generally incur similar insurance costs.

Fairness may suggest that claims receiving potentially equal protection in the event of a failure be assessed equally. Similarly, since there are varying degrees of protection for different categories of claims, it could be argued that fairness demands higher assessment payments for greater degrees of protection.

Fairness may also refer to the extent to which abnormal occurrences, such as the receipt at quarter end of an unusually large deposit to be held only briefly by the institution, affect the amount of an institution's assessments. In this regard, fairness may suggest that the assessment base should be defined in terms of averages, which would help smooth out the effects of such abnormal occurrences, rather than on actual "as-of" report-date data.

2. Measurability

This criterion refers to the extent to which the components of the assessment base can feasibly and objectively be calculated with a minimum degree of uncertainty and disagreement by separate, independent parties (such as the institution being assessed and the FDIC).

For example, an assessment base that is limited to insured deposits might raise measurability concerns, since timely and reliable calculations of only those deposits (or portions of deposits) that actually would be covered by insurance in the event of a failure might not be feasible. (To the extent measurability is not an issue, the recordkeeping necessary to support such a calculation might be.) If measurability is a problem here, a possible solution might be to identify a "proxy" intended to provide a less precise (but related) substitute that is more readily available than actual insured deposits.

3. Relation to Risk

This criterion refers to the extent to which the assessment base reflects the degree of risk posed to the deposit insurance funds. For example, there is a link between the existing assessment

base, which is based on total domestic deposits, and the magnitude of the loss the failure of an institution could cause its deposit insurance fund.

On the one hand, private insurance firms often base the amount of their premiums at least in part on the amount to be paid out under the policy if the insured event transpires. This practice might suggest an assessment base consisting of insured deposits only. Such a definition also would be consistent with the primary purpose of federal deposit insurance as clarified by FDICIA—to protect insured deposits.

On the other hand, existing public policy provides protection for liabilities other than insured deposits, through such measures as depositor preference—which provides some protection to non-insured domestic deposits—and granting superior status to secured liabilities. In addition, to the extent that secured claims are elevated to a position superior to that of insured deposits, the FDIC may be at greater risk of not recovering the full amount of its payout on insured deposits. Thus, assessment of liabilities other than insured deposits is not inherently inconsistent with the concept of defining the assessment base in terms of the magnitude of the risk posed to the FDIC.

4. Non-Avoidability

This criterion refers to the extent to which the assessment base precludes or minimizes transactions or adjustments made solely to avoid assessments. Under the existing assessment base, which is defined in terms of deposits held "as of" the last day of the quarter, avoidance activities usually involve the temporary transfer of deposits out of an institution's deposit base for a brief period extending over quarter end.

One such example is the movement of deposits into non-deposit instruments (such as notes or repurchase agreements) within the same institution just prior to quarter end, solely for the purpose of reducing the assessment paid by the institution. The transferred funds are returned to deposit accounts at the beginning of the next quarter, after the "as of" date for determining the institution's assessment base.

Another example, which involves the transfer of deposits from one insured institution to another, does not affect the total amount of assessments collected by the FDIC but rather forces the receiving institution to pay assessments on deposits that would otherwise have been included in the transferring institution's assessment base. In this example, deposits are transferred just prior to quarter end from one institution to another. The transfer is reversed shortly thereafter. The result is to disadvantage the (probably unsuspecting) receiving institution by increasing the deposit base on which its assessments are calculated.

In both of these examples, the result is an artificial situation created solely for the purpose of avoiding assessments. Such situations could be mitigated by the use of "average" data in defining the assessment base.

5. Recordkeeping Burden

This criterion refers to the ease of maintaining and reporting the data needed for computing an institution's assessment base. It encompasses the time and effort necessary for any additional recordkeeping beyond that required of reporting entities for purposes other than assessments.

The FDIC fully appreciates the need to keep to a minimum any additional recordkeeping requirements. However, pursuant to section 7(b)(5) of the FDI Act, as amended by FDICIA, each insured depository institution must maintain all records the FDIC may require for verifying the correctness of the institution's assessments. Depending on how the assessment base is defined, additional recordkeeping might be necessary to allow for the verification of the assessment-related information reported by an institution.

If, in responding to any portion of this Notice, a comment recommends a particular recordkeeping requirement, the commenter is requested to include an estimate of the amount of time it would take a reporting entity to meet the requirement.

B. Questions for Comment Regarding the Criteria

Response to the following questions is requested:

1. Are the definitions of the aforementioned criteria sufficient in terms of evaluating the various options for defining the assessment base? If not, provide suggested definitions.

2. Are there any other criteria that should be considered in evaluating the various options for defining the assessment base? If so, identify and define those criteria.

IV. Alternative Assessment-Base Definitions

This section presents several options for defining the assessment base. It does not attempt to address all possible options, but rather discusses those the FDIC has identified to date as the primary alternatives.

Following a discussion of each of these options are several specific questions pertaining to that option. Response to these questions is requested from all interested persons.

A. Status Quo

Under this option, the assessment base would remain unchanged, and it would continue to be defined, broadly stated, as total domestic deposits. Because there would be no changes, the FDIC's existing assessment-base regulations would not be amended.

Retaining the existing definition would avoid another regulatory change for insured depository institutions. The existing definition is generally well understood and operable, and has relatively few measurement problems. However, because quarter-end data are used to calculate the current assessment base, there is a high risk of assessment avoidance, and the problem of receiving abnormally large deposits or misdirected wire transfers at quarter end would not be addressed.

Relative to assessable deposits, there has been recent growth of other liabilities and off-balance-sheet activities. If this is a long-term trend, it might not be desirable to link assessments to a base that may be shrinking in relation to overall banking activity unless the protection provided in connection with the federal deposit insurance program is reduced commensurately.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed in section III of this Notice:

3. Fairness
4. Measurability
5. Relation to Risk
6. Non-Avoidability
7. Recordkeeping Burden
8. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific questions regarding this option:

9. Should the float deductions be retained at their existing levels, or should they be modified? (The deduction for adjusted demand deposits is 16⅔ percent and the deduction for adjusted time and savings deposits is 1 percent.) State the advantages and disadvantages of the recommended method for addressing the float deduction for the status quo option.

10. Identify other advantages or disadvantages of this option for defining the assessment base.

B. Total Unadjusted Domestic Deposits

Under this option, the assessment base would be defined in its existing form (status quo), except that current

assessment base adjustments would be eliminated. The float deductions, which were established over 30 years ago, are the most significant adjustments to the assessment base provided for in the current regulations. Since that time, there have been dramatic changes in the payments system in the United States that may have caused the current float deductions to become obsolete. Therefore, many advocate the elimination of these float deductions.

The other existing adjustments to the assessment base have a less dramatic effect on the total assessments paid by institutions. However, these adjustments complicate the measurability of the assessment base and increase the reporting and recordkeeping burden.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed in section III of this Notice:

11. Fairness
12. Measurability
13. Relation to Risk
14. Non-Avoidability
15. Recordkeeping Burden
16. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific questions regarding this option:

17. Should the existing float deductions be eliminated? State the advantages and disadvantages of eliminating these adjustments to deposits.

18. Should other adjustments to deposits that are currently provided for be eliminated (such as "BICs" and pass-through reserve balances)? State the advantages and disadvantages of eliminating these adjustments.

19. Identify other advantages or disadvantages of this option for defining the assessment base.

C. Expanded Base: Non-Deposit Secured Liabilities

Under this option, the assessment base would consist, in general terms, of total adjusted domestic deposits plus non-deposit secured liabilities (such as secured notes and other secured borrowings). One argument given for assessing secured liabilities is that they are protected before the FDIC in the event of a failure and, accordingly, increase the risk of loss to the FDIC.

Secured creditors of insured depository institutions are protected against loss by assets of the institution that are pledged as security for its debts to those creditors. Because more favorable terms can be obtained on borrowings by pledging high-quality, marketable assets as security, there is a tendency for institutions to pledge such assets for that purpose. If the institution were to fail, these pledged assets would not be available to reduce the FDIC's losses or to settle the claims of other unsecured creditors. As more of the institution's assets are pledged—often, the highest-quality, most marketable assets—there are fewer assets remaining to satisfy unsecured obligations, including unsecured deposit and non-deposit liabilities.

The likely effect of a shrinking pool of quality assets on the FDIC is to increase its failure-resolution costs. FDIC costs could be increased even further if, as is often the case, the market realizes beforehand that an institution may be heading toward insolvency. Uninsured and unsecured creditors typically flee an institution perceived to be in trouble, leaving the institution more dependent on secured borrowings for funding, and further depleting the pool of unpledged assets available for settling claims.

FDICIA allows secured claims to be paid up to the fair market value of the assets pledged against those claims. 12 U.S.C. 1821(d)(5)(D). Any remaining portion is to be treated as an unsecured claim. This marginally reduces the FDIC's exposure by restricting secured claimholders' recoveries to the market value of the pledged assets, but by no means eliminates the exposure.

If the assessment base were expanded to include secured liabilities, a better measure of these liabilities would be necessary. While rough estimates of secured liabilities are obtainable, an institution's secured, non-deposit borrowings cannot at present be readily determined from data available in the institution's Report of Condition. As a result, if the assessment base were defined to include non-deposit secured liabilities, additional data (and additional recordkeeping) would probably be required.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed in section III of this Notice:

20. Fairness
21. Measurability
22. Relation to Risk
23. Non-Avoidability
24. Recordkeeping Burden
25. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific question regarding this option:

26. Identify other advantages or disadvantages of this option for defining the assessment base.

D. Expanded Base: Foreign Deposits

Under this option, the assessment base would equal, in general terms, total adjusted domestic deposits plus foreign deposits. Despite the fact that obligations payable only outside the United States and certain other limited areas (including "foreign deposits") are not covered by federal deposit insurance, they have sometimes been protected in the past by federal failure-resolution policies. Since virtually all foreign deposits are held by large banks and since large-bank failures historically have been handled in a way that protected most depositors, it has been argued that these deposits should be assessed. Those who support this argument believe that assessing foreign deposits would help to equalize a perceived inequality in treatment between large and small depository institutions.

However, recent changes in the failure-resolution process have eroded this argument. Under FDICIA, protection of uninsured deposits, including foreign deposits, is permitted only in cases where a least-cost determination warrants such protection or where the systemic-risk exception is triggered. In cases falling within the systemic-risk exception (which are expected to be quite rare), FDICIA requires special assessments on the members of the affected insurance fund to cover the costs of protecting any uninsured deposits. (The statute requires the special assessment without reference to the fund's resources; thus, whether or not foreign deposits are included in the assessment base is totally irrelevant to the applicability of the special assessment, which is apparently intended to be imposed on all members of the affected fund.)

Another possible argument for assessing foreign deposits is to offset any losses resulting from a foreign government's seizure of failed U.S. institutions' assets located within the jurisdiction of that foreign government. While the possible seizure of assets by a host country is a risk that should not be overlooked, neither should it be exaggerated. In the event of such a failure, it is not clear who would control the liquidation of foreign-branch assets.

Increased costs associated with assessing foreign deposits could reduce the ability of U.S. depository institutions to compete in foreign and international markets and could adversely affect their ability to promote exports from the United States. There is

reason to believe that assessment of foreign deposits would cause many depository institutions to convert their foreign offices to subsidiary depository institutions, thus perhaps substantially reducing the amount of foreign deposits subject to assessment.

Moreover, many would argue that if foreign deposits are assessed, they should also be insured. At present, federal statute explicitly precludes the insurance coverage of foreign deposits. A change in this situation would require Congressional action and would raise a variety of issues, including the reaction of foreign governments to U.S. depository institutions offering insured deposits in competition with that country's domestic depository institutions.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the criteria discussed in section III of this Notice:

27. Fairness
28. Measurability
29. Relation to Risk
30. Non-Avoidability
31. Recordkeeping Burden
32. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific question regarding this option:

33. Identify other advantages or disadvantages of this option for defining the assessment base.

E. Expanded Base: Total Liabilities

Under this option, the assessment base would equal total liabilities (domestic and foreign).[3] An argument can be made for an assessment-base definition that is based on all of an institution's funding sources (e.g., total liabilities, not including capital) as opposed to deposits alone. As an institution encounters difficulties, a "flight to quality" often occurs, with uninsured depositors and unsecured creditors leaving the institution. In turn, fewer depositors and other creditors are actually unprotected, or face losses, at the time of failure. As a result, as assets are liquidated to fund the withdrawal of uninsured deposits, this flight to quality reduces the amount of unpledged assets that are available for settling claims, which increases the FDIC's resolution costs. This argues for assessing institutions' liabilities that are protected directly by deposit insurance (insured deposits), as well as indirectly (uninsured deposits and secured liabilities), in the event of a failure.

FDIC experience with depository institution failures supports the premise that all types of an institution's liabilities are used to fund the activities that cause depository institution failures and, thereby, produce losses for the FDIC. Given this situation, it has been suggested that all of a depository institution's liabilities should be assessed by the FDIC. This would also remove any artificial incentives for institutions to favor certain types of liabilities (e.g., non-deposits) over other types of liabilities (e.g., deposits) for purposes of assessment avoidance.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed in section III of this Notice:

34. Fairness
35. Measurability
36. Relation to Risk
37. Non-Avoidability
38. Recordkeeping Burden
39. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific question regarding this option:

40. Identify any other advantages or disadvantages of this option for defining the assessment base.

F. Insured Deposits Only

Under this option, the assessment base would equal insured deposits only. To the extent that protection of obligees in the event of an institution failure is limited to insured deposits, this definition would provide a balance between protection and assessment. However, to the extent non-insurance protection is given to non-insured liabilities, that balance is undermined.

The potential risk to the FDIC from non-insured liabilities of a depository institution, such as secured borrowings, would be disregarded under this option. In addition, other protected obligations, such as uninsured deposits potentially sheltered by depositor preference, would not be assessed. With regard to uninsured deposits, one might argue that the protection they receive is provided at no cost or risk to the deposit insurance funds, and that such a risk comes only from insured deposits and secured liabilities. Others might argue that they all fall within the scope of the protection provided by the "federal safety net" and that such protection should somehow be taken into account in determining an institution's deposit insurance premiums.

Whatever the merits of these arguments might be, coming up with a timely and accurate figure for only that portion of an institution's deposits that actually would be covered by deposit insurance were the institution to fail may pose significant reporting problems. For example, concerns have been expressed regarding the difficulty of compiling data that accurately distinguish between insured and uninsured deposits.

At present, the Reports of Condition require data indicating the total amount of the institution's deposits and its uninsured deposits. However, the report formula for computing uninsured deposits results in estimated amounts and may not be sufficiently precise for purposes of determining an institution's assessment base. Providing an acceptable level of precision may require an institution to increase its data collection and analysis efforts, resulting in increased regulatory burden.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed in section III of this Notice:

41. Fairness
42. Measurability
43. Relation to Risk
44. Non-Avoidability
45. Recordkeeping Burden
46. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific questions regarding this option:

47. In order to alleviate any additional reporting burden associated with reporting precise amounts of insured deposits under this option, would it be desirable to develop a "proxy" for insured deposits for assessment purposes? If so, what would be an acceptable method of approximation?

48. Identify other advantages or disadvantages of this option for defining the assessment base.

G. Assessment Base of Total Assets

Under this option, the assessment base would equal an institution's total assets. Conceptually, an argument can be made for charging premiums against those items which pose a risk of loss to the deposit insurance funds, such as an institution's assets.

An assessment base defined in terms of assets might be more easily understood and less prone to manipulation for assessment-avoidance purposes than liability-based measures. Based on Report of Condition data, it could be easily measured and perhaps more predictable than a deposit-based definition. It also would insulate the assessment base from liability-structure

[3] To the extent this option includes foreign deposits, the observations made in the preceding discussion of such deposits also apply to this option.

decisions of the institution, creating an assessment base that is neutral with respect to an institution's liabilities. Because all assets would be included in the base, this definition also could reduce the risk of assessment avoidance.

While conceptually appealing, this approach would be a substantial departure from tradition, and there would be no direct relationship between those items assessed and those items insured.

Commenters are requested to provide an evaluation of this option for defining the assessment base, in terms of the following criteria discussed earlier in section III of this Notice:

49. Fairness
50. Measurability
51. Relation to Risk
52. Non-Avoidability
53. Recordkeeping Burden
54. Any other criteria suggested by the commenter.

Commenters are also requested to respond to the following specific questions regarding this option:

55. As discussed in this section, there can be advantages to an assessment base founded on assets. However, given that numerically, total liabilities is equivalent to total assets, net of equity, what would be the advantages and disadvantages of using total assets, net of equity, instead of total liabilities, to define the assessment base?

56. Would an assessment base defined in terms of assets be more reflective of risk to the deposit insurance funds, and, if so, how?

57. Identify other advantages or disadvantages of this option for defining the assessment base.

V. Miscellaneous Requests for Comment

In addition to the comments requested elsewhere in this Notice, response to the following questions is invited:

58. Should the assessment base be calculated using daily average data for the quarter (total dollars for the quarter divided by the number of days in the quarter), rather than "as-of" quarter-end data? What are the advantages and disadvantages of each of these approaches? Are there preferable alternative approaches, and if so, what are they and what are their advantages and disadvantages?

59. If daily averages over the quarter were used, what additional recordkeeping would be necessary for the institution? (Please describe and quantify.)

60. To what extent, if any, should off-balance-sheet items be factored into the assessment base?

61. If the assessment base is redefined, is there a need for a transition period from application of the existing base to application of the new base? If so, how should the transition period be implemented and how long should it be?

62. Should there be an assessment base for large institutions and a different assessment base for small institutions? If so, what should the respective assessment bases be? How should "large institution" and "small institution" be defined for this purpose?

63. What are the implications (if any) of a change in the assessment base on the ability of insured depository institutions to innovate and to keep up with changes in the marketplace?

64. Since there are varying degrees of protection for different types of claims resulting from a depository institution failure, would "fairness" require that there be some mechanism in the assessment system for adjusting assessments to correspond to the degree of protection provided? If so, what should that mechanism be?

65. Are there other desirable options for defining the assessment base, including modifications to the options presented in this Notice? If so, identify and explain the options and describe their advantages and disadvantages.

66. What would be the impact of a change in the definition of the assessment base on competition within the United States? Describe the impact on domestic competition relative to the assessment base options discussed in section IV and any additional options suggested by the commenter.

67. What would be the impact of a change in the definition of the assessment base on global competition, particularly with regard to foreign deposits? Describe the impact on global competition relative to the assessment base options discussed in section IV and any additional options suggested by the commenter.

68. Please provide any other comments regarding the assessment base.

By order of the Board of Directors.

Dated at Washington, D.C., this 27th day of September, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–24607 Filed 10–4–94; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

Establishment of New Port—Rockford, IL

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to Customs field organization by establishing a new port of entry in the Customs District of Chicago, Illinois, North Central Region. The new port of entry would be designated as Rockford, Illinois and would include Greater Rockford Airport, which is currently operated as a user-fee airport. This change will assist the Customs Service in its continuing efforts to achieve more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before December 5, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U. S. Customs Service, 1301 Constitution Avenue NW., Washington, D. C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Lund, Office of Inspection and Control, (202) 927–0540.

SUPPLEMENTARY INFORMATION:

Background

To achieve more efficient use of its personnel, facilities, and resources, and in order to provide better service to carriers, importers and the public in the North Central Region, Customs proposes to amend § 122.15, Customs Regulations (19 CFR 122.15), by removing Greater Rockford Airport from the list of user-fee airports and § 101.3, Customs Regulations (19 CFR 101.3) to add Rockford, Illinois, as a port of entry. The new port would be designated as Rockford, Illinois and would include Greater Rockford Airport.

The criteria used by Customs in determining whether to establish a port of entry are found in T. D. 82–37 (47 FR 10137), as revised by T. D. 86–14 (51 FR 4559) and T. D. 87–65 (52 FR 16328). Under these criteria, a community

requesting a port of entry designation must:

(1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(2) Be serviced by at least two major modes of transportation (rail, air, water or highway);

(3) Have a minimum population of 300,000 within the immediate service area (approximately a 70 mile radius); and

(4) Make a commitment to make optimal use of electronic data transfer capabilities to permit integration with Customs Automated Commercial System (ACS), which provides a means for electronic processing of entries of imported merchandise. Further, the actual or potential Customs workload (minimum number of transactions per year) at the proposed port of entry must meet one of several alternative minimum requirements, one of which is the condition that no more than half of the required 2,500 consumption entries can be attributable to one private party. Lastly, facilities at the proposed port of entry must include cargo and passenger facilities, warehousing space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas and other space necessary for regulatory Customs operations.

The proposal set forth in this document originated as a request from the Rockford Airport Authority that Rockford, Illinois be designated as a port of entry. With regard to the above criteria, the Rockford Airport Authority has stated that the Federal Government would benefit from the port of entry designation because Rockford, Illinois would thus be available to share the workload presently handled at the port of entry at Chicago, Illinois.

According to a memorandum from the Regional Commissioner, North Central Region, in addition to the airport, Rockford has two other transportation modes, rail and highway.

According to the Rockford Chamber of Commerce, the 1990 census figures indicate that the population of the city of Rockford is 139,426 and that of the Rockford metropolitan area is stated to be 283,719. A 70 mile radius would include several Illinois and Wisconsin cities and several northwestern suburbs of Chicago. Counting the communities within a 70 mile radius would bring the area population to well over 300,000.

The number of formal Customs entries in fiscal year 1992 was 3539, with a representation that no more than 8.4% were attributable to one private party. Regarding electronic data transfer capability, the Greater Rockford Airport Authority is committed to making optimal use of electronic data transfer capability to permit integration with ACS.

Lastly, according to the Regional Commissioner's office, since Greater Rockford Airport is currently a Customs user-fee airport, it already has a workload. It is likely that Rockford will continue to grow.

The District Director at Chicago has verified that Rockford's entries for the year 1992 exceeded 2,500 formal entries, and the Regional Commissioner for the North Central Region has advised that Rockford appears to meet the criteria for port of entry status.

Based on the above, Customs believes that there is sufficient justification for the establishment of the requested port of entry. Rockford, Illinois meets an appropriate combination of the workload criteria specified.

Description of Port Entry Limits

The geographical limits of the proposed Port of Rockford, Illinois, which would include the Greater Rockford Airport, would be as follows:

Bounded to the north by the Illinois/Wisconsin border; Bounded to the west by Illinois State Route 26; Bounded to the south by Illinois State Route 72; and Bounded to the east by Illinois State Route 23 north to the Wisconsin/Illinois border.

Proposed Amendments

If the proposed port of entry designation is adopted, the list of Customs regions, districts, and ports of entry at § 101.3 will be amended to include Rockford, Illinois as a port of entry in the Customs District of Chicago and the Greater Rockford Airport will be deleted from the list of user-fee airports in § 122.15.

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, Office of Regulations and Rulings, U. S. Customs Service, Franklin Court, 4th floor, 1099 14th St., NW., Washington, D.C. 20005.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

The Regulatory Flexibility Act and Executive Order 12866

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Thus, although this document is being issued with notice for public comment, because it relates to agency management and organization it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, this proposal does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

Dated: September 19, 1994.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–24611 Filed 10–4–94; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5082–1]

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of Volatile Methyl Siloxanes and Parachlorobenzotrifluoride

AGENCY: Envrionmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to revise EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for the Federal implementation plan (FIP) for the Chicago ozone nonattainment area. This revision adds parachlorobenzotrifluoride (PCBTF) and volatile methyl siloxanes (VMS) to the list of compounds excluded from the

definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation. In the final rules section of this **Federal Register**, the EPA is approving this definition revision as a 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 final rule. If no adverse comments or requests for a public hearing are received in response to the final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments or requests for public hearing on the final rule, the final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The 30 day comment period established by this notice will be the only comment period instituted by EPA. Any requests for extensions of the comment period will be considered. The EPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments may be submitted until November 4, 1994. Requests for a public hearing must be received by November 4, 1994.

ADDRESSES: Comments on this document should be submitted in duplicate (if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-93-47, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments should be strictly limited to the subject matter of this rule.

PUBLIC HEARING: If anyone contacts EPA requesting a public hearing, it will be held at Research Triangle Park, North Carolina. Persons wishing to request a public hearing, wanting to attend the hearing or wishing to present oral testimony should notify Mr. William Johnson, Air Quality Management Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5245. The EPA will publish notice of a hearing, if a hearing is requested, in the **Federal Register**. Any hearing will be strictly limited to the subject matter of the rule.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Management Division (MD-15), Research Triangle Park, NC 27711, phone (919) 541-5245.

SUPPLEMENTARY INFORMATION: See the information provided in the final notice which is located in the final rules section of this **Federal Register**.

Dated: September 23, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94-24643 Filed 10-4-94; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94-112, RM-8516]

Radio Broadcasting Services; Farmville, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Farmville Herald, Inc., proposing the allotment of Channel 225A to Farmville, Virginia, as an additional FM service to the community. Channel 225A can be allotted to Farmville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 225A at Farmville are North Latitude 37-18-00 and West Longitude 78-23-48.

DATES: Comments must be filed on or before November 21, 1994, and reply comments on or before December 6, 1994.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Matthew H. McCormick, Reddy, Begley & Martin, 1001 22nd Street, N.W., Suite 350, Washington, D.C. 20037 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94-112, adopted September 19, 1994, and released September 30, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94-24556 Filed 10-4-94; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 94-111, RM-8519]

Radio Broadcasting Services; Ingalls, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana J. Puopolo, proposing the allotment of Channel 290A to Ingalls, Kansas, as the community's first local aural transmission service. Channel 290A can be allotted to Ingalls in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 290A at Ingalls are 37-49-48 and 100-27-06.

DATES: Comments must be filed on or before November 21, 1994, and reply comments on or before December 6, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner,or its counsel or consultant, as follows: Dana J. Puopolo, 37 Martin Street, Rehoboth, Massachusetts 02769-2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94-111, adopted September 19, 1994,

and released September 30, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–24555 Filed 10–4–94; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 59, No. 192
Wednesday, October 5, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Committee on Adjudication

ACTION: Notice of Public Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Rulemaking and the Committee on Adjudication of the Administrative Conference of the United States.

AGENCY: Committee on Rulemaking.

DATES: Monday, October 24, 1994, from 2–4 p.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

AGENCY: Committee on Adjudication.

DATES: Monday, November 21, 1994, at 9:30 am.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee on Rulemaking will meet to continue its discussion of Exemption 8 of the Freedom of Information Act. The Conference's consultant for this project is Professor Roy Schotland of the Georgetown University Law Center.

The Committee on Adjudication will meet to continue discussion of a report by Professor Brian Shannon, of Texas Tech University Law School, on suspension and debarment in the procurement and nonprocurement contexts.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of each committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of each meeting will be available on request.

Dated: September 29, 1994.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 94–24603 Filed 10–4–94; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 30, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. this list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contract person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Extension

- Food and Nutrition Service
Affidavit of Return or Exchange of Food Coupons
Form FNS–135
On occasion
State or local governments; 65,273 responses; 17,859 hours
Paul E. Jones (703) 305–2385
- National Agricultural Statistics Service
Cotton Ginnings
Semi-annually; Annually; Semi-monthly Sept.–Jan.
Small businesses or organizations; 13,030 responses; 1,316 hours
Larry Gambrell (202) 720–5778
- Forest Service
Youth Conservation Corps (YCC) Application and Medical History
FS–1800–3, and FS–1800–18
On occasion
Individuals or households; 26,800 responses; 2,150 hours Ransom Hughes (703) 235–8861

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 94–24619 Filed 10–4–94; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Intent to Prepare an Environmental Impact Statement for the Clear Creek Skiing Corporation's Revised Master Development Plan; Arapaho National Forest; Loveland Basin and Loveland Valley Ski Areas; Clear Creek County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Arapaho and Roosevelt National Forests and Pawnee National Grassland is proposing to determine whether to approve a revision to the Master Development Plan for Loveland Basin and Loveland Valley Ski areas. The revision is to the Master Development Plan that was approved by the Forest Service on March 1, 1997. Loveland Basin and Loveland Valley ski areas are operated by Clear Creek Skiing Corporation and located entirely on National Forest System lands. Clear Creek Corporation was issued a 40-year permit on January 26, 1994 that included a clause requiring them to complete the Master Development Plan within 5 years.

The Master Development Plan revision includes new skiing terrain,

two new lifts, additional parking, upgraded base area facilities, lift replacements, additional snowmaking lines, and a backcountry ski touring area.

The purpose of the actions proposed by Clear Creek Skiing Corporation is to provide the highest quality skiing experience by providing a wide variety of skiing experience, quality base area facilities, and balanced capacities. Some of the lifts at the ski areas are twenty years old or older and in need of replacement. The existing condition indicates a large imbalance of excess trail capacity over lift capacity.

The replacement of several lifts with fixed-grip quad chairs will allow for greater life capacities. The addition of two new lifts, and the addition of new skiing terrain will allow a diversity of experience for beginner, intermediate and expert skiers. Additional snowmaking lines will allow for the coverage of high wear areas and for opening the ski areas early to accommodate large crowds during the holidays. Many of the facilities at the ski areas are in need of renovation and expansion to accommodate expected growth.

The proposed action at Loveland Basin ski area is to (1) Replace three lifts with fixed-grip quad chairs, remove a poma lift, add a new lift to access 75 acres of difficult and extreme skiing; (2) Glade terrain to add 18 acres of additional skiing; (3) Add approximately 4,500 linear feet of subgrade piping for snowmaking under two chairlifts. No additional water diversion is required; (4) Replace, renovate and/or add to existing facilities including ticket office, rental and repair shop, retail sales and storage, and improvement of entry and skier plaza.

The proposed action at Loveland Valley ski area is to (1) Replace one lift with a fixed-grip quad and add a new fixed-grip quad; (2) Add 71 acres of new terrain for easy and more difficult skiing; (3) Add snowmaking lines to cover 45 acres of the new terrain; (4) Add a ticketing and restroom facilities near the proposed new lift and an addition to the existing lodge for daycare and additional restaurant seating; (5) Add a 500-car parking lot above the existing eastern parking lot.

Also proposed is providing guided backcountry skiing into the east face of Mount Trelease, adjacent to Loveland Basin ski area, located outside of the permit boundary but in an area designated as 1–B–2 which provides for potential winter sports sites in the Arapaho and Roosevelt and Pawnee National Grasslands Forest Plan of 1984.

The purpose of the Environmental Impact Statement is to determine the environmental effects of the proposed action and of any reasonable alternative actions that would also achieve the purpose and need while addressing significant issues raised through public comment and agency review.

The purpose of this Notice is to inform you that the Forest Service, with the assistance of a third party contractor, is soliciting your comments and concerns about this proposed action.

The environmental analysis and decision-making process will include opportunities for public participation and comment so that people interested in this proposal may contribute to the final decision.

The Forest Service is now seeking written comments and suggestions on the scope of the analysis. Comments relevant to scoping include: (1) Identifying potential issues, (2) identifying those issues to be analyzed in depth, (3) eliminating insignificant issues, (4) identifying additional alternatives to the proposed action that should be considered; (5) identifying potential environmental effects on the proposed action and alternatives. General notice to the public concerning the scope of the analysis will be provided by mailings, news releases and a field trip.

DATES: Comments related to the scope of the analysis should be received by October 31, 1994 to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions to Corey P. Wong, District Ranger, Clear Creek Ranger District, 101 Chicago Creek, P.O. Box 3307, Idaho Springs, Colorado, 80452.

FOR FURTHER INFORMATION CONTACT: Sue Greenley, Project Coordinator, Clear Creek Ranger District, 101 Chicago Creek, P.O. Box 3307, Idaho Springs, Colorado, 80452, (303) 567–2901.

SUPPLEMENTARY INFORMATION: Loveland Basin and Loveland Valley ski areas have operated under special use permit since 1937 on National Forest System lands administered by the Arapaho and Roosevelt National Forests. The permit covers 2,300 acres of National Forest System land, the area where these projects are proposed.

The ski areas operate in accordance with the Master Development Plan that was approved by the Forest Service on March 1, 1977. Specific operations on National Forest Service lands are authorized under a special use permit issued by the Forest Service on January 26, 1994.

The proposed action is consistent with the long-range goals for this area as defined in the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests and Pawnee National Grassland, approved on May 4, 1984. Under that Forest Plan, the area encompassed by Loveland Basin and Loveland Valley ski areas is assigned to management under prescription 1B–1. This management prescription provides management emphasis for the provision of downhill skiing on existing downhill sites. The purpose of prescription 1B–1 is to integrate ski area development and use with other resource management to provide healthy tree stands, vegetative diversity, forage production for wildlife and livestock, and opportunities for nonmotorized recreation.

The proposed area for guided backcountry skiing, adjacent to Loveland Basin ski area, is assigned to management under prescription 1B–2. This management prescription provides for potential winter sports sites. The purpose of prescription 1B–2 is for these sites to be maintained for future downhill skiing recreation opportunities and recreation opportunities focus on dispersed recreation uses. Vegetation treatment focuses on perpetuating a healthy forest. The Forest Service does not anticipate the need for any amendments to the Land and Resource Management Plan as a result of this proposal.

A range of reasonable alternatives to the proposed action will be considered in the analysis. Reasonable alternatives are those which fulfill the purpose and need for the proposals and address significant issues that are identified during the scoping process. The only specific alternative that has been identified at this time is the "no action" alternative. If the "no action" alternative is selected, the proposed project would not take place at this time.

The analysis will address major issues and concerns about the proposed action and alternatives and will disclose the direct and indirect impacts related to those issues. The following tentative issues have been identified: (1) Impacts to wetlands and floodplains; (2) Impacts to water quality; (3) Impacts to threatened and endangered species; (4) Impacts to visual quality; (5) Impacts to downhill skiers.

It is anticipated that the Draft Environmental Impact Statement will be published by November 30, 1994. The Final Environmental Impact Statement will be completed in March, 1995.

The comment period on the Draft Environmental Impact Statement will be 45 days from the date the Environmental Protection Agency

publishes the Notice of Availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC* 435 US 519, 533 (1978). Also, environmental objections that could be raised at the Draft Environmental Impact Statement stage but that are not raised until after completion of the Final Environmental Impact Statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334 (E.D. Wis. 1980). Because of these court rulings it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: September 22, 1994.

Corey P. Wong,

District Ranger.

[FR Doc. 94–24661 Filed 10–4–94; 8:45 am]

BILLING CODE 3410–11–M

Cottonwood Fire Restoration Project, Tahoe National Forest, Sierra County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service, Tahoe National Forest will prepare an environmental impact statement (EIS) for proposed watershed restoration, timber salvage, fuels reduction, wildlife habitat improvement, and reforestation activities within the xx,xxx-acre Cottonwood Fire Restoration Project analysis area located in the Feather River and Truckee River watersheds. The project area is located within all or portions of T19N, R15 & 16E, T20N, R15, 16, & 17E; and T21N, R15, 16, and 17E, MDB&M.

The agency invites comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments should be made in writing and received by November 21, 1994.

ADDRESSES: Written comments concerning the project should be directed to Steve Bishop, District Ranger, Sierraville Ranger District, P.O. Box 95, Sierraville, CA 96126.

FOR FURTHER INFORMATION CONTACT: Steve Bishop, District Ranger, Sierraville Ranger District, Sierraville, CA 96126, telephone (916) 994–3401, or Martha Twarkins, Project Team Leader, at the above location or at (916) 478–6293.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare the Eastside Forest Restoration Project EIS was published in the **Federal Register** on May 16, 1994 [59 FR 25440–25441]. That 85,000-acre project was proposed to address the area's extensive tree mortality and overstocked timber stands. Opportunities were identified to treat those stands in order to improve forest health and reduce the fire hazard, while concurrently accomplishing watershed restoration and wildlife habitat improvement goals.

Significant new circumstances have occurred that bear on the original proposal. From August 16 through August 31, 1994, the 48,000-acre Cottonwood Fire burned through the Eastside Forest Restoration Project analysis area, affecting about 36,300 acres of National Forest System land and 11,700 acres of lands of other ownership on both the Tahoe and Toiyabe National Forests.

The fire burned with high-to-moderate intensity on over 90 percent of the affected area, leaving only skeletons of burned trees and shrubs. Less than 10 percent of the area burned with low intensity, leaving partially burned or scattered live trees. This loss of vegetation has resulted in large areas of exposed soils and, thus, unstable watershed conditions, large amounts of new fuels, and the loss of standing timber and future timber growth potential. The fire also affected other important resources, such as wildlife habitat, recreation sites, visual quality, historic and pre-historic sites, fisheries, sensitive plant and animal species, and water quantity and quality.

The unburned portion (about xx,xxx acres) of Eastside Forest Restoration Project EIS is being deferred for analysis until the completion of the Cottonwood Fire Restoration Project EIS; a revised Notice of Intent to Prepare an Environmental Impact Statement for the remaining area, along with new time schedules, will be placed in the **Federal Register** at a later date.

The Cottonwood Fire Restoration Project analysis area is about xx,xxx acres in size, and includes xx,xxx acres of National Forest System lands and xx,xxx acres of lands of other ownerships. Most of the area is in the Feather River watershed, with a small portion in the Truckee River watershed. It is located east of the town of Sierraville and Highway 89, north of Sardine Peak and Lewis Mill, west of Babbitt Peak and the crest of the Bald Mountain Range, and south of the town of Loyalton. Major drainages within the project area include Cottonwood Creek, Lemon Canyon, Turner Canyon, Smithneck Creek, Bear Valley Creek, and Badenaugh Canyon. The project area includes all lands within the fire boundary on the Sierraville Ranger District of the Tahoe National Forest; the area burned on the Carson Ranger District of the Toiyabe National Forest will be analyzed separately.

In preparing the environmental impact statement, the Forest Service will identify and analyze a range of alternatives that address the issues developed for this area. One of the alternatives will be no treatment. Other alternatives will consider differing levels of implementation of salvage treatments, fuels reduction, watershed restoration, road obliteration, wildlife habitat improvement, and new road construction and reconstruction. An ecological approach will be used to achieve multiple-use management of the Cottonwood Fire area. It also means that the needs of people and environmental values will be blended in such a way that this area's desired condition would represent a diverse, healthy, productive, and sustainable ecosystem.

Public participation will be important during the analysis, especially during the review of the draft environmental

impact statement. The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The following list of issues has been identified through initial scoping:

(1) To what extent can the potential for future large, catastrophic wildlife be reduced within the project area?

(2) To what extent can the forest health be restored within the project area?

(3) What level of timber commodities could result from forest health restoration projects?

(4) To what extent will erodable and sensitive soils, and thus long-term soil productivity, be affected by the proposed activities?

(5) To what extent will the view from Highways 49 and 89 be affected? What visual character will result from the proposed activities, and to what extent can visual quality be improved in sensitive areas affected by the fire?

(6) To what extent will vegetative diversity be improved to support a wide variety of biological communities?

(7) To what extent and at what timing will wildlife habitat be restored for the large variety of wildlife using the area?

(8) To what extent will watershed conditions be improved and restored by the proposed activities?

(9) To what extent will air quality in the Sierra Valley and Truckee areas be affected by the proposed activities?

Comments from other Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by the decision, are encouraged to identify other significant issues. Public participation will be solicited through mailing letters to potentially interested or affected mining claim owners, private land owners, and special use permittees on the Sierraville Ranger District; posting information in local towns; and mailing letters to local timber industries, politicians, school boards, county supervisors, and environmental groups. Continued participation will be emphasized through individual contacts. Public meetings used as a method of public involvement during preparation and review of the draft environmental impact statement will be announced in newspapers of general circulation in the geographic area of such meetings well in advance of scheduled dates.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December, 1995. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS 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 the 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 EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is expected to be available by March, 1995. The responsible official is John H. Skinner, Forest Supervisor, Tahoe National Forest.

Dated: September 26, 1994.

Larry Gruver,

Acting Forest Supervisor

[FR Doc. 94–24565 Filed 10–4–94; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene on October 28, 1994, from 1 p.m. to 3 p.m., at the Holiday Inn City Centre, 100 West 8th Street, Sioux Falls, South Dakota 57102. The purpose of the meeting will be to review and approve the Committee's report on employment discrimination against women, and discuss followup activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rae Burnett or William F. Muldrow, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 26, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–24566 Filed 10–4–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

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: International Trade Administration (ITA).

Title: Foreign Buyer Program: Application and Exhibitor Data.

Agency Form Numbers: ITA–4102P and 4014P.

OMB Approval Number: 0625–0151.

Type of Request: Revision of a currently approved collection.

Burden: 919 hours.

Number of Respondents: 4,080.

Avg Hours Per Response: Approximately 3 hours for the Form 4102P and 10 minutes for the 4104P.

Needs and Uses: The Foreign Buyers Program encourages foreign buyers to attend selected domestic trade shows in high export potential industries. Our embassies recruit buyers to attend the shows. Show organizers wishing to obtain support must submit an application which is used in selecting the trade events to be promoted. U.S. exhibitors also provide information which is used to provide export counseling and other services.

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: Tag Recapture Card — Southeast Region.

Agency Form Number: None assigned.

OMB Approval Number: 0648–0259.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 8 hours.

Number of Respondents: 240.

Avg Hours Per Response: 2 minutes.

Needs and Uses: The Cooperative Marine Game Fish Tagging Program began in the Southeast Region in 1971. The primary objectives of the tagging program are to obtain scientific information on fish growth and movement which assists with stock assessments and management. When recovering tagged fish, fishermen are asked to return the tag and provide certain information. This information is then matched with information provided when the fish was originally tagged.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

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: September 30, 1994

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc 94–24579 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

[A–301–801, A–331–801]

Notice of Postponement of Final Determinations of Sales at Less Than Fair Value: Fresh Cut Roses From Colombia and Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Bill Crow or Shawn Thompson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0116 or (202) 482–1776, respectively.

Postponement

On September 20, 1994, three of the four respondents in the antidumping duty investigation of fresh cut roses from Ecuador requested that the Department postpone the final determination in that investigation 127 days, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)), in order to ensure that the Department has adequate time to conduct verification and to consider fully all the issues in the case. In addition, on September 27, 1994, Asocolflores, the Colombian Flower Growers Association, as well as fourteen of the sixteen Colombian respondents in the antidumping duty investigation of fresh cut roses from Colombia, requested that the Department postpone the final determination in the Colombian investigation 128 days in order to ensure that the Department has adequate time to conduct verification and to consider fully all the issues in the cases, in accordance with section 735(a)(2)(A) of the Act. On September 27, 1994, the fourth Ecuadorian respondent requested that the Department align the final determination dates in the Colombian and Ecuadorian cases. Finally, on September 28, 1994, the other Ecuadorian respondents requested that the Department also align the final determination dates by postponing the final determination 128 days.

We find no compelling reasons to deny these requests and are, accordingly, postponing the dates of the final determinations for both cases until not later than January 26, 1995, pursuant to 19 CFR 353.20(b)(1).

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(b)(2).

Dated: September 28, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–24654 Filed 10–4–94; 8:45 a.m.]

BILLIND CODE 3510–DS–P–M

[C–333–002]

Cotton Yarn From Peru; Notice of Proposed Amended Conversion

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Cotton Yarn from Peru: Notice of Proposed Amendment to the Existing Conversion of the Scope of the Order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. The Department now proposes to amend the 1989 Conversion governing the countervailing duty order on cotton yarn from Peru. Interested parties are invited to comment on this proposed amended conversion.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230 telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1983, the Department issued a countervailing duty order on Cotton Yarn from Peru (C–333–002) (48 FR 4508; February 1, 1983). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule [for] all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). The notice also included the conversion of the scope of the referenced cotton yarn order from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that the conversion could be amended, as warranted, at any time during the applicable proceeding as a result of the submission of comments or new factual information.

As a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on cotton yarn from Peru and, therefore, that the conversion should be amended.

To rectify the problems in the 1989 Conversion, the Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission, has once again compared the TSUSA-defined scope and the HTS-defined scope provided by the 1989 Conversion, and identified those HTS numbers that more reasonably correspond with the TSUSA-defined scope of the countervailing duty order on cotton yarn from Peru. A new proposed amended conversion is found in the attached appendix.

Request for Public Comments

We invite interested parties to submit comments on the proposed amended conversion within 30 days of the publication of this notice. All comments must be in writing (10 copies), addressed to the attention of the Director, Office of Countervailing Compliance, International Trade Administration, IA Central Record Unit, Room B–099, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Dated: September 28, 1994.

Susan G. Esserman

Assistant Secretary for Import Administration.

Appendix: Proposed Amended HTS List for Cotton Yarn From Peru (C–333–002)

Subheadings 5205.1110 through 5206.4500, inclusive.

[FR Doc. 94–24657 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–402]

Certain Textile Mill Products From Peru; Notice of Proposed Amended Conversion

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Certain Textile Mill Products from Peru: Notice of Proposed Amendment to the Existing Conversion of the Scope of the Order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. The Department now proposes to amend the 1989 Conversion governing the countervailing duty order on certain textile mill products from Peru. Interested parties are invited to comment on this proposed amended conversion.

EFFECTIVE DATE: Octobert 5, 1994.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1985, the Department issued a countervailing duty order on Certain Textile Mill Products from Peru (C–333–402) (50 FR 9871; March 12, 1985). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule [for] all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). The notice also included the conversion of the scope of the referenced textile order from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that the conversion could be amended, as warranted, at any time during the applicable proceeding as a result of the submission of comments or new factual information.

As a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on certain textile mill products from Peru and, therefore, that the conversion should be amended.

To rectify the problems in the 1989 Conversion, the Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission, has once again compared the TSUSA-defined scope and the HTS-defined scope provided by the 1989 Conversion, and identified those HTS numbers that more reasonably correspond with the TSUSA-defined

scope of the countervailing duty order on certain textile mill products from Peru. A new proposed amended conversion is found in the attached appendix.

Request for Public Comments

We invite interested parties to submit comments on the proposed amended conversion within 30 days of the publication of this notice. All comments must be in writing (10 copies), addressed to the attention of the Director, Office of Countervailing Compliance, International Trade Administration, IA Central Record Unit, Room B–099, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Dated: September 28, 1994.

Susan G. Esserman

Assistant Secretary for Import Administration.

Appendix: Proposed Amended HTS List for Certain Textile Mill Products From Peru (C–333–402)

5106.1000*	5208.2960
5106.2000*	5208.2980
5107.1000*	5209.1100
5107.2000*	5209.1200
5108.1060*	5209.2100
5108.2060*	5406.1000
5109.1060	5406.2000
5109.9060	5511.1000
5111.1170	5511.2000
5111.1960	5511.3000
5112.1120†	5701.1016
5112.1990†	5701.1020
5204.1100	5702.3110
5204.1900	5702.3120
5204.2000	5702.4110
5207.1000	5702.4120
5207.9000	5702.5120
5208.1140	5702.5140
5208.1180	5702.9130
5208.1260	5702.9140
5208.1280	5703.1000
5208.1300	5801.1000
5208.1920‡	5801.3300
5208.1940	5801.3400
5208.1960	5801.3500
5208.1980	5805.0025
5208.2120	6002.4200
5208.2140	6301.2000
5208.2160	6304.9915
5208.2240	6306.1100
5208.2260	6306.2100
5208.2280	6306.9100
5208.2940	

*Coverage limited to single or multiple (folded) or cabled yarn, not exceeding 22 nm per single yarn.

†Coverage limited to fabric, wholly or in part of fine animal hair.

‡Coverage limited to fabric, not wholly of satin weave.

[FR Doc. 94–24658 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–402]

Certain Apparel from Peru; Notice of Proposed Amended Conversion

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Certain Apparel from Peru: Notice of Proposed Amendment to the Existing Conversion of the Scope of the Order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. The Department now proposes to amend the 1989 Conversion governing the countervailing duty order on certain apparel from Peru. Interested parties are invited to comment on this proposed amended conversion.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1985, the Department issued a countervailing duty order on *Certain Apparel from Peru* (C–333–402) (50 FR 9871; March 12, 1985). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule [for] all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). The notice also included the conversion of the scope of the referenced apparel order from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that the conversion could be amended, as warranted, at any time during the applicable proceeding as a result of the submission of comments or new factual information.

As a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on certain apparel from Peru and, therefore, that the conversion should be amended.

To rectify the problems in the 1989 Conversion, the Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission, has once again compared the TSUSA-defined scope and the HTS-defined scope provided by the 1989 Conversion, and identified those HTS numbers that more reasonably correspond with the TSUSA-defined scope of the countervailing duty order on certain apparel from Peru. A new proposed amended conversion is found in the attached appendix.

Request for Public Comments

We invite interested parties to submit comments on the proposed amended conversion within 30 days of the publication of this notice. All comments must be in writing (10 copies), addressed to the attention of the Director, Office of Countervailing Compliance, International Trade Administration, IA Central Record Unit, Room B–099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix: Proposed Amended HTS List for Certain Apparel From Peru (C–333–402)

4202.1240	6103.1210
4202.2270	6103.1910
4202.2280	6103.2100*
4202.9215	6103.2200*
4202.9260	6103.2300*
6102.1000	6103.2910*
6102.3010	6103.4110
6103.1100	6103.4210†

6103.4310	6117.1020
6103.4910‡	6201.1100
6104.1100	6201.9120
6104.1310	6201.9325
6104.1910	6202.1100
6104.2100*	6202.9120
6104.2300*	6202.9220
6104.2910*	6202.9340
6104.3100	6204.2100*
6104.3310	6204.2230*
6104.3910‡	6204.2300*
6104.4100	6204.2920*
6104.4310	6204.3120
6104.4410	6204.3340
6104.5100	6204.3920
6104.5310	6204.4120
6104.5910‡	6204.4230◊
6104.6100	6204.4330
6104.6315	6204.4430
6104.6920‡	6204.5100
6105.1000♦	6204.5320
6106.1000♦	6204.5920
6109.1000♦	6204.6100
6110.1010	6204.6240■
6110.1020	6204.6325
6110.2020♦	6204.6920
6110.3015	6205.2020}
6116.9100	6214.2000
6116.9364	6505.9030
6116.9374	6505.9040
6117.1010	

* Coverage limited to garments that would be subject to this order if separately entered.

† Coverage limited to garments having embroidery or permanently affixed applique work on the outer surface.

‡ Coverage limited to garments of artificial fibers, containing 23 percent or more by weight of wool or fine animal hair.

♦ Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.

◊ Coverage excludes dresses of pile fabric and other dresses of fabric having yarns of different colors.

■ Coverage excludes girls' garments, women's shorts, women's trousers and breeches of pile fabric and other women's trousers and breeches of blue denim.

} Coverage excludes shirts of pile fabric and other shirts of fabric having yarns of different colors.

[FR Doc. 94–24655 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–001]

Cotton Sheeting and Sateen From Peru; Notice of Proposed Amended Conversion

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Cotton Sheeting and Sateen from Peru: Notice of Proposed Amendment to the Existing Conversion of the Scope of the Order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. The Department now proposes to amend the 1989 Conversion governing the countervailing duty order on cotton sheeting and sateen from Peru. Interested parties are invited to comment on this proposed amended conversion.

EFFECTIVE DATE: October 5, 1994.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1983, the Department issued a countervailing duty order on *Cotton Sheeting and Sateen from Peru* (C–333–001) (48 FR 4501; February 1, 1983). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule [for] all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). The notice also included the conversion of the scope of the referenced cotton sheeting and sateen order from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that the conversion could be amended, as warranted, at any time during the applicable proceeding as a result of the submission of comments or new factual information.

As a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on cotton sheeting and sateen from Peru and, therefore, that the conversion should be amended.

To rectify the problems in the 1989 Conversion, the Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission, has once again compared the TSUSA-defined scope and the HTS-defined scope provided by the 1989 Conversion, and identified those HTS numbers that more reasonably correspond with the TSUSA-defined scope of the countervailing duty order on cotton sheeting and sateen from Peru. A new proposed amended conversion is found in the attached appendix.

Request for Public Comments

We invite interested parties to submit comments on the proposed amended conversion within 30 days of the publication of this notice. All comments must be in writing (10 copies), addressed to the attention of the Director, Office of Countervailing Compliance, International Trade Administration, IA Central Record Unit, Room B–099, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Dated: September 28, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix: Proposed Amended HTS List for Cotton Sheeting and Sateen From Peru (C–333–002)

5208.1120

5208.1240

5208.1920*

5208.2920*

5209.1900

5209.2900

* Coverage limited to fabric, wholly of satin weave.

[FR Doc. 94–24656 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–DS–P

DEPARMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 26, 1994 Maquiladora Pieles Pitic, S.A. de CV and Pitic Leather filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final countervailing duty determination made by the International Trade Administration in the administrative review respecting Leather Wearing Apparel from Mexico. This determination was published in the **Federal Register** on August 25, 1994 (59 FR 43815). The NAFTA Secretariat has assigned Case Number USA–94–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established Rules of Procedure for Article 1904 Binational Panels Reviews ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 26, 1994, requesting panel review of the final countervailing duty administrative review described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 26, 1994);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is November 10, 1994); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 30, 1994.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 94–24659 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–GT–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Delay in the Implementation of Export Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk-blend and Non–Cotton Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Laos

September 30, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending the effective date for the implementation of visa requirements.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On September 13, 1994 a notice was published in the **Federal Register** (59 FR 46964) announcing the establishment of export visa requirements for textiles and textile products, produced or manufactured in Laos and exported from Laos on and after October 1, 1994.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to delay the implementation of the visa requirements until November 15, 1994. Goods exported from Laos during the period November 15 through November 30, 1994 shall not be denied entry for lack of a visa. All goods exported after November 30, 1994 must be accompanied by an appropriate export visa.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 30, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 8, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to require an export visa for certain textiles and textile products, produced or manufactured in Laos and exported from Laos on and after October 1, 1994. You are directed to delay the implementation of the visa requirements until November 15, 1994.

Effective on October 1, 1994, you are directed to amend the September 8, 1994 directive to prohibit entry of textiles and textile products, produced or manufactured in Laos and exported from Laos on and after November 15, 1994 for which the Government of the Lao People's Democratic Republic has not issued an appropriate export visa. Goods exported during the period November 15, 1994 through November 30, 1994 shall not be denied entry for lack of a visa.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–24653 Filed 10–4–94; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange Proposed Emerging Markets Debt Index Futures and Futures Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The New York Cotton Exchange (NYCE or Exchange) has applied for designation as a contract market in emerging markets debt index ("EMD Index℠ or "EMDX℠") futures and futures option contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before November 4, 1994.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Reference should be made to the NYCE emerging markets debt index futures and futures option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Steve Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the Exchange in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the Exchange, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on September 29, 1994.

Blake Imel,

Acting Director.

[FR Doc. 94–24627 Filed 10–4–94; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Cellulose Insulation

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through September 30, 1997, of information collection requirements set forth in the Amended Interim Safety Standard for Cellulose Insulation (16 CFR Part 1209). The cellulose insulation standard prescribes requirements for flammability and corrosiveness of cellulose insulation produced for sale to or use by consumers. The standard requires manufacturers and importers of cellulose insulation to test insulation for resistance to smoldering and small open-flame ignition, and for corrosiveness, and to maintain records of that testing.

Additional Information About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Amended Interim Safety Standard for Cellulose Insulation (16 CFR Part 1209).

Type of request: Extension of approval.

General description of respondents: Manufacturers and importers of cellulose insulation.

Estimated number of respondents: 25.

Estimated average number of hours per respondent: 100 per year.

Estimated number of hours for all respondents: 2,500 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0416, extension 2245.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: September 29, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 94–24557 Filed 10–4–94; 8:45 am]

BILLING CODE 6355–01–P

Proposed Collection of Information; Survey of Importers and Manufacturers of Fireworks

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey of importers and manufacturers of fireworks. The purpose of this survey is to obtain information about the types and number of fireworks devices they import, manufacture, or sell.

The Commission will use this information to determine if amendment of regulations applicable to fireworks

devices may be needed to further reduce unreasonable risks of injury associated with those products.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Survey of Importers and Manufacturers of Fire Works.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Importers and manufacturers of fireworks.

Total number of respondents: 200.

Number of responses per respondent: 1.

Hours per response: 4 to 6

Total hours for all respondents: 800 to 1,200

Comments: Comments about this request for approval of a collection of information should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2245.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: September 29, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 94–24558 Filed 10–4–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board (SAB) 1994 Fall General Board Meeting will meet from 8 a.m. to 5 p.m. on 9–10 November 1994 at Bolling Air Force Base, Washington, DC and the National Academy of Sciences, Washington DC.

The purpose of these meetings are to deliver briefings and have discussions for the new members of the Scientific Advisory Board, to present a symposium on five Decades of Progress Toward New Horizons, and to commemorate the USAF Scientific Advisory Board's 50th Anniversary. These meetings will be open to the public.

For further information, contact the SAB Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 94–24662 Filed 10–04–94; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Cape Fear River Feasibility Study, New Hanover and Brunswick Counties, North Carolina

AGENCY: U.S. Army Corps of Engineers Wilmington, District, DOD.

ACTION: Notice of Intent.

SUMMARY: Deepening of the existing channel from the ocean bar to the Port of Wilmington is the central feature of the proposed action. Other features included in the proposed action consist of widening three turning basins and extending the deep draft project about 1.5 miles further up the North East Cape Fear River. The total length of improvements is approximately 35 miles. Benefits which will accrue from deepening of Wilmington Harbor include reductions in lightloading of vessels and vessel delays. Shippers will also be able to use larger, more efficient vessels.

ADDRESSES: U.S. Army Corps of Engineers, Wilmington, District, Environmental Resources Branch, PO Box 1890, Wilmington, North Carolina 28402–1890.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Yelverton, Telephone: (910)251–4640.

SUPPLEMENTARY INFORMATION: Three alternative depths are being considered for the ocean bar channel (42, 44, and 46 feet plus overdepth) and generally three alternative depths for the river channels (40, 42, and 44 feet plus overdepth). Four types of dredging equipment may be used in this action. A hopper dredge may be used in the lowest end of the project and a bucket and barge dredge in the middle reaches of the river (up to about mile 25). A rock dredge with disposal in barges may be used where rock is present downstream of mile 25. The hopper, bucket and barge, and rock dredges will probably dispose of dredged material in the approved ocean dredged material disposal site (ODMDS). A standard hydraulic pipeline or rock dredge may be used from about mile 25 upstream. The dredged material upstream of mile 25 will be pumped to Eagle Island. In the project where rock is to hard to dredge, the rock will require blasting. This rock will then be removed and placed in the ODMDS or in Eagle Island.

If suitable rock material is available downstream of mile 25, instead of placement of the rocky material in the ODMDS, an offshore fisheries enhancement structure may be created.

All private parties and Federal, State, and local agencies having an interest in the study are hereby notified of the study and are invited to comment at this time. Also, scoping letter requesting input to the study was set to all known interested parties on September 18, 1992.

Based on comments received to date, a scoping meeting will not be needed. All comments received as a result of this notice of intent and the scoping letter will be considered in the preparation of the DEIS.

Significant issues to be analyzed in the DEIS include:

(1) Dredging of benthic resources,

(2) Blasting impacts on primary nursery areas, anadromous fish, the endangered shortnose sturgeon, sea turtles and marine mammals,

(3) Potential Increased salinity especially in upstream areas,

(4) Loss of wetlands due to widening of turning basins,

(5) Impacts to cultural resources.

The lead agency for this project is the U.S. Army Engineer District, Wilmington. Cooperating agency status has to been assigned to, nor requested by, any other agency.

The DEIS is being prepared in accordance with the requirements of the National Environmental Policy of 1969, as amended, and will address the relationship of the proposed action to all other applicable Federal and State Laws and Executive Orders.

The DEIS is currently scheduled to be available in January 1996.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–24664 Filed 10–4–94; 8:45 am]

BILLING CODE 3710–GN–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB)

Date of Meeting: 24 October 1994

Time of Meeting: 0900–1600

Place: Office of the Surgeon General, Falls Church, VA

Agenda: The Army Science Board's Ad Hoc Study on "Review of Existing Toxicity Data and Human Estimates for Selected Chemical Agents and Recommended Human Toxicity Estimates Appropriate for Defending the Soldier" will meet to review recommended toxicity values. The Army will brief the data base, methodology, key studies, and identify and discuss the difference between the recommended values and commonly used values. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–24567 Filed 10–4–94; 8:45 am]

BILLING CODE 3710–08–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 94–4]

Deficiencies in Criticality Safety at Oak Ridge Y–12 Plant

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a concerning deficiencies in criticality safety at Oak Ridge Y–12 Plant. The Board requests public comments on this recommendation.

DATES: Comments, data, views, or arguments, concerning this recommendation are due on or before November 4, 1994.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Carole C. Morgan, at the address above or telephone (202) 208–6400.

DATED: September 30, 1994.

John T. Conway,

Chairman.

[Recommendation 94–4]

Deficiencies in Criticality Safety at Oak Ridge Y–12 Plant

Dated: September 27, 1994.

The Defense nuclear Facilities Safety Board (Board) has issued a number of recommendations concerning formality of operations, including Recommendation 92–5, Discipline of Operations in a Changing Defense Nuclear Facilities Complex. In that recommendation, the Board stated that facilities schedule for continued operations should develop a style and level of conduct of operations which is comparable to that achieved at commercial nuclear facilities. Recommendation 92–5 further noted that, prior to achieving an acceptable level of formality, major improvements were required in a number of areas, including safety analysis reports, limiting conditions of operation, and training and qualification of personnel.

The Board and its staff have been monitoring the Department of Energy's (DOE) efforts to implement an acceptable level of conduct of operations at the Y–12 Plant in Oak Ridge, Tennessee, which is scheduled for continued operations. The Board has forwarded a number of reports to DOE during the last two years indicating the existence of safety-related concerns regarding operations at Y–12. DOE and its operating contractor, Martin-Marietta Energy Systems (MMES), have taken some actions to correct deficiencies; however, a number of recent events have led the Board to the conclusion that more aggressive and comprehensive management actions are required to bring the level of conduct of operations at Y–12 to a satisfactory level.

The Board notes that during the past four months a number of violations of Operational Safety Requirements and other safety limits have occurred at the Y–12 Plant. Most recently, the Board's staff identified a substantial violation of nuclear criticality safety limits within a special nuclear material storage vault at Y–12. When the staff identified this deficiency to on-site personnel, including a senior MMES manager, an MMES nuclear criticality safety specialist, and one of DOE's facility representatives, immediate corrective actions that were required by Y–12 procedures were not taken. In fact, proper corrective actions that were required by Y–12 procedures were not taken. In fact, proper corrective actions were not taken until the Board's staff informed the DOE Y–12 Site Manager. Subsequently MMES curtailed a number of operations at the Y–12 Plant. Reviews of compliance with nuclear criticality safety limits at the Y–12 Plan revealed that a widespread level of noncompliance exists.

In its Annual Report to Congress (February 1994) the Board noted that personnel and procedures are complementary elements in implementing conduct of operations. The report stated, "The health and safety of the public and workers rest on a properly trained workforce accomplishing tasks in a formal deliberate fashion in accordance with reviewed and approved procedures." In responding to the Board's Recommendation 93–6, Maintaining Access to Nuclear Weapons Experience, DOE is evaluating the impact of expertise presently being lost through ongoing staff reductions on their ability to perform nuclear weapons dismantlement at Y–12.

The Board recognizes that DOE and MMES management have begun taking aggressive actions to correct the specific problems of adherence to nuclear criticality safety limits, since the nuclear criticality safety occurrence referred to above. However, the Board believes that more remains to be done. According, the Board recommends that:

(1) DOE determine the immediate actions necessary to resolve the nuclear criticality safety deficiencies at the Y–12 Plant, including actions deemed necessary before restarting curtailed operations and any compensatory measures instituted. These actions should be documented, along with an explanation of how the deficiencies remained undetected by MMES and DOE (line and oversight).

(2) DOE perform the following for defense nuclear facilities at the Y–12 Plant:

(a) An evaluation of compliance with Operational Safety Requirements and Criticality Safety Approvals (CSAs), including a determination of the root case of any identified violations. In performing this assessment, DOE should use the experience gained during similar review at the Los Alamos plutonium facility and during the recent "maintenance mode" at the Pantex Plant.

(b) A comprehensive review of the nuclear criticality safety program at the Y–12 Plant, including: the adequacy of procedural controls, the utility of the nuclear criticality safety approvals, and a root case analysis of the extensive level of non-compliance found in recent reviews.

(c) A comparison of the current level of conduct of operations to the level expected by DOE in implementing the Board's Recommendation 92–5.

(d) Development of plans, including schedules, to address any deficiencies identified in the analyses conducted above.

(3) DOE evaluate the experience, training, and performance of key DOE and contractor personnel involved in safety-related activities at defense nuclear facilities within the Y–12 Plan to determine if those personnel have the skills and knowledge required to execute their nuclear safety responsibilities (in this regard, reference should be made to the critical safety elements developed as part of DOE's response to the Board's Recommendation 93–1).

(4) DOE take whatever actions are necessary to correct any deficiencies identified in (3) above in the experience, training, and performance of DOE and contractor personnel.

John T. Conway,

Chairman.

Appendix—Transmittal Letter to Secretary of Energy

September 27, 1994.

Hon. Hazel R. O'Leary,
Secretary of Energy,
Washington, DC.

Dear Secretary O'Leary: On September 27, 1994, the Defense Nuclear Facilities Safety Board, in accordance with 42 U.S.C. § 2286a(5), unanimously approved Recommendation 94–4 which is enclosed for your consideration. Recommendation 94–4 deals with Deficiencies in Criticality Safety at Oak Ridge Y–12 Plant.

42 U.S.C. § 2286d(a) requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms. The Board believes the recommendation contains no information which is classified or otherwise restricted. To the extent this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. §§ 2161–68, as amended, please arrange to have this recommendation promptly placed on file in your regional public reading rooms.

The Board will publish this recommendation in the **Federal Register.**

Sincerely,

John T. Conway,

Chairman.

[FR Doc. 94–24604 Filed 10–4–94; 8:45 am]

BILLING CODE 6820–KD–M

DEPARTMENT OF ENERGY

Office of Procurement and Assistance Management Award, Renewal, and Extension of Management and Operating Contracts

AGENCY: Department of Energy

ACTION: Notice of interim policy statement

SUMMARY: The Department of Energy today publishes an interim Acquisition Letter for public comment that sets forth new interim policies regarding the competition and extension of the Department's management and operating contracts. The policies supersede Department of Energy Acquisition Regulation Subparts 917.605 and 970.0001, pending the issuance of a rule. Supporting deviations have been authorized by the Procurement Executive.

DATES: The effective dates are set forth in the interim Acquisition Letter. Comments are due on or before November 4, 1994.

ADDRESSES: Comments may be submitted to Richard Langston, Office of Procurement and Assistance Management (HR–521.1), U.S. Department of Energy, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard Langston, Office of Procurement and Assistance Management (HR–521.1), U.S. Department of Energy, Washington, D.C. 20585 (202) 586–8247.

SUPPLEMENTARY INFORMATION: The Department of Energy (Department), through its Contract Reform initiative, has concluded that the Department's policies and practices regarding the extension of its management and operating contracts need to be revamped. Existing policies favor indefinite extensions of incumbent contractors and, in practice, few competitions for management and operating contracts historically have been undertaken. Such policies and practices effectively preclude the introduction of new companies and best management practices into the Department's laboratory and weapons production complex.

This new policy establishes competition for performance-based management contracts (a new form of management and operating contract) as the norm. Exceptions to competition will be made, on a case by case basis, only in exceptional circumstances and only when authorized by the Head of the Agency. The underlying intent of the new policy is to balance the benefits of a competitive environment with the recognition that long-term contractual relationships can facilitate superior performance. Accordingly, the policy permits contract terms of up to five years with an option to extend the term for an additional five years for competitively awarded performance-based management contracts. Contracts awarded on a noncompetitive basis, however, will require justification and approval by the Head of the Agency prior to any extension.

In view of the foregoing, the Department has issued the Acquisition Letter set forth below as an interim policy, the effective dates of which are set forth below. It is essential that these interim policies and procedures be effected immediately so that the Department can initiate procurement actions for those contracts that will expire in the near term, but were not specifically addressed in the Secretary of Energy's July 5, 1994 Action Memorandum. A notice of proposed rulemaking is in the process of being developed.

The Department is seeking public comment on the Acquisition Letter in order to give the public, including those persons who are affected by the policies, an opportunity to comment on the interim Letter before it is finalized.

Issued in Washington, D.C., on September 28, 1994.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management

Acquisition Letter 94–14
September 28, 1994

Authority

This Acquisition Letter is issued by the Procurement Executive pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation Subpart 901.301–70.

CONTENTS

Citation	Title
FAR 17.605	Award, Renewal, and Extension.
DEAR 917.605	Award, Renewal, and Extension.
DEAR 970.0001.	Renewal of management and operating contracts.

I. Purpose

The Department of Energy Contract Reform Team Report concluded that the Department's policies and practices regarding the extension of its management and operating contracts needed to be revamped. The Contract Reform Team found that existing

policies favored indefinite extensions of incumbent contractors and that in practice, few competitions for management and operating contracts were undertaken.

Such policies and practices effectively precluded the introduction of new companies and best management practices into the Department's laboratory and weapons production complex. The Report also recognized the need to balance the benefits of a competitive environment with the recognition that long contract terms of up to 10 years can facilitate superior performance.

The purpose of this Acquisition Letter is to establish an interim policy that favors competition, yet preserves the benefits of long-term contract relationships. Under this new policy, competition will be the norm. Exceptions to competition will be made only in exceptional circumstances and only when authorized by the Head of the Agency.

II. Background

Subpart 17.6 of the Federal Acquisition Regulation prescribes policies and procedures for award, renewal, and extension of management and operating contracts.

III. Guidance

This Acquisition Letter is issued to revise and consolidate the policy and procedures regarding competing or extending performance-based management contracts, a new form of management and operating contract. The attached interim procedures supersede all previous guidance regarding extend or compete decisions. They will be used until the rulemaking process is completed. A class deviation from Department of Energy Acquisition Regulation 917.605 and 970.0001 has been authorized to implement the attached procedures. In addition, a class deviation to subsection 17.605(b) of the Federal Acquisition Regulation has been authorized to permit a revision to the timing of the Agency Head authorization for the renewal and extension of performance-based management contracts at the five-year point in the performance period under certain circumstances specified in this Acquisition Letter.

By Action Memorandum dated July 5, 1994, the Secretary of Energy has made determinations regarding certain management and operating contracts which will expire in the near term. The Secretary's determination mandates that certain contracts be competed and that others be extended to facilitate either competition or the immediate negotiation of key elements of contract reform into the existing contracts. Contracts awarded or extended pursuant to that determination are subject to this Acquisition Letter; however, no further action is required relating to the extension of those contracts until the time of the next extend or compete decision. Furthermore, contracts extended pursuant to the Secretary's determination shall not include an option to extend the contract for an additional five years.

The term "performance-based management contract" denotes the new form of management and operating contract that will be used by the Department of Energy for the operation of its Government-owned, or controlled, laboratories and weapons production facilities. Its use reflects the Department's policy and intent to convert traditional management and operating contracts to the new form of contract called for in the Contract Reform Team Report.

IV. Effective Date

This Acquisition Letter is effective upon the date of issue shown above.

V. Expiration Date

The Department is seeking public comment on these policies. The Acquisition Letter will remain in effect on an interim basis until the Department takes further action after reviewing any public comments on these policies.

Award, Renewal and Extension of Management and Operating Contracts

I. Policy

(a) It is the policy of the Department of Energy to use full and open competition in the award of performance-based management contracts, except in exceptional circumstances where it is determined that the use of competitive procedures is incompatible with the effective and efficient discharge of Departmental programs or is otherwise incompatible with the paramount interest of the United States, and the Head of the Agency authorizes the use of noncompetitive procedures to extend the term of an existing contract. Such authorizations shall be supported by a written justification which shall be certified by the Head of the Contracting Activity and the cognizant Assistant Secretary(s).

(b) Performance-based management contracts shall normally be competed at inception and upon expiration of their contract term as set forth below.

II. Contract Term and Options to Extend

(a) Effective work performance under performance-based management contracts is facilitated by the use of relatively long contract terms of up to 10 years. Accordingly, competitively awarded performance-based management contracts shall provide for a basic contract term not to exceed 5 years and may include an option to extend the term for a period not to exceed 5 years.

(b) Contracts awarded prior to the effective date of this Acquisition Letter using competitive procedures may be modified to incorporate an option to extend the term of the contract for a period not to exceed 5 years where:

(1) the total period of performance, including the continuation, will not exceed 10 years;

(2) the contractor's past performance under the contract has been determined to be of high quality; and

(3) the contractor has also agreed to a contract modification necessary to implement other performance-based management contract provisions.

(c) *Exercise of Options.* As part of the review required by FAR 17.605(b), the contracting officer shall assess whether competing the contract will produce a more advantageous offer than the option. The incumbent contractor's past performance under the contract, the extent to which performance-based management contract provisions are present, or can be negotiated into, the contract, and the impact of a change in a contractor on the Department's discharge of its programs are considerations that shall be addressed in the contracting officer's decision that the exercise of the option is in the Government's best interest. The contracting officer's decision shall be approved by the Head of the Contracting Activity and the cognizant Assistant Secretary(s). In instances where a contract has been modified, pursuant to paragraph (b) above, to incorporate an option to extend, a justification for other than full and open competition shall be prepared and approved in accordance with FAR Part 6 and DOE Order 4200.1C prior to the exercise of the option.

III. Procedures for Noncompetitive Extension

Exceptional circumstances, as defined in I.(a) above, may exist that warrant the noncompetitive extension of a performance-based management contract beyond the basic and option periods. In such cases, a performance-based management contract may be extended for an additional period not to

exceed 5 years when authorized by the Head of the Agency. Requests for extension shall be subject to the following procedures:

(a) The Head of the Contracting Activity shall publicize the intent to recommend a contract extension in the **Federal Register** and invite comment thereon.

(b) A recommendation to extend a performance-based management contract (other than through the exercise of an option to extend) may be submitted to the Head of the Agency through the Deputy Assistant Secretary for Procurement and Assistance Management at any time, but no later than 24 months prior to the expiration of the contract term. The recommendation shall be supported by:

(1) a justification for other than full and open competition prepared in accordance with FAR Part 6 and DOE Order 4200.1C, including a certification by the Head of Contracting Activity and cognizant program Assistant Secretary(s) that the use of full and open competition is incompatible with the effective and efficient discharge of Departmental programs or otherwise incompatible with the paramount interest of the United States;

(2) a detailed description of the incumbent's performance history in areas such as program accomplishment, safety, health, environment, energy conservation, financial and business management and socio-economic programs, including measurable results against established performance measures and criteria;

(3) an identification of significant projects or other objectives planned for assignment under the contract if extended;

(4) an outline of principal issues and/or significant changes to be negotiated in the terms and conditions of the extended contract;

(5) in the case of a Federally Funded Research and Development Center, a review of the use and continued need for FFRDC designation in accordance with FAR 35.017–4;

(6) a determination that the performance-based management contract remains the appropriate form of contract; and

(7) any other information pertinent to the decision.

(c) *Conditional Authorization.* Authorization to extend by the Head of the Agency shall be considered conditional upon the successful negotiation of the contract to be extended in accordance with the Department's negotiation objectives. The Head of the Contracting Activity shall advise the approving authority no later than 6 months after receipt of the conditional authorization as to whether the Department's objectives will be met and, if not, the contracting activity's plans for competing the requirement.

(d) Justification. FAR 6.302 identifies statutory authorities for the use of other than full and open competition. These authorities are permissive. Nothing in this Acquisition Letter is intended to impair the availability of these authorities for performance-based management contracts. However, it is intended that they be applied only when the use of competitive procedures is incompatible with the effective and efficient discharge of Departmental programs or is otherwise incompatible with the paramount interest of the United States .

IV. Renewal of the Performance-based Management Contract Form

All performance-based management contracts shall be periodically reviewed to determine whether the performance-based management contract form remains the most appropriate contract form. In the case of competitively awarded contracts, the request to authorize the continued use of the performance-based management contract shall be submitted at least 6 months prior to the anticipated release date of the solicitation. The Head of the Contracting Activity shall submit a request to authorize the continued use of the performance-based management form of contract to the Head of the Agency through the cognizant Assistant Secretary(s) and the Deputy Assistant Secretary for Procurement and Assistance Management.

For contracts that will be extended using noncompetitive procedures, the request to authorize the continued use of the performance-based management contract shall be submitted as part of the extension recommendation required by III.(b)(6).

[FR Doc. 94–24649 Filed 10–4–94; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. TM95–1–63–001]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 29, 1994.

Take notice that on September 23, 1994, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

Substitute Sixth Revised Sheet No. 7

Carnegie states that the purpose of this filing is to correct an error on Sixth Revised Sheet No. 7. That Sheet stated an incorrect Transportation Cost Rate.

The proposed effective date of the tariff sheet listed above is October 1, 1994.

Carnegie states that copies of the filing were served on Carnegie's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of practice and procedure. All such protests should be filed on or before October 6, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 94–24548 Filed 10–4–94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94–406–000]

Carnegie Natural Gas Co.; Proposed Change in FERC Gas Tariff

September 29, 1994.

Take notice that on September 26, 1994, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets:

Seventh Revised Sheet No. 7
Eighth Revised Sheet No. 7

The proposed effective date of Seventh Revised Sheet No. 7 is September 1, 1994 and the proposed effective date of Eighth Revised Sheet No. 7 is October 1, 1994.

Carnegie states that it is filing the above tariff sheets pursuant to Section 32.2(c) of the General Terms and Conditions of its FERC-approved tariff as a Periodic Transportation Cost Rate (TCR) Filing to reflect a reduction in the calculated projection of the costs of unassigned upstream pipeline capacity held by Carnegie on Texas Eastern Transmission Corporation (Texas Eastern) in excess of $0.10/Dth.

Carnegie states that this filing reflects a revision to the projection Carnegie made in its Mid-Cycle TCR Filing, which was filed on March 31, 1994 and accepted by the Commission on April

29, 1994. The filing reflects a reduction in the Transportation Cost Rate from $1.6537 to $1.1109. Carnegie further states that the sole reason for the different effective dates and the two tariff sheets is because of the change in Carnegie's ACA rate from $0.0025 to $0.0023 on October 1, 1994.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions and requests whatever waivers are required to implement the rate reduction effective September 16, 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 6, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-24549 Filed 10-4-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-160-022]

Columbia Gulf Transmission Co.; Fund Report

September 29, 1994.

Take notice that on September 2, 1994, Columbia Gulf Transmission Company (Columbia Gulf) filed with the Federal Energy Regulatory Commission a report summarizing refunds disbursed on July 29, 1994, to the cities of Charlottesville and Richmond, Virginia (the Cities).

Columbia Gulf states that these refunds covered the period December 1, 1991, through May 31, 1994, in the total amount of $147,566.48, including $12,116.97 in interest.

On November 9, 1992, Columbia Gas Transmission Corporation and Columbia Gulf submitted to the Commission a joint offer of settlement in the above referenced dockets (Settlement). On April 2, 1993, the Commission issued an order approving the Settlement. On September 29, 1993, the Commission issued an order on rehearing approving the Settlement for all consenting parties and severing certain non-consenting parties (the Cities) from the Settlement. On October 13, 1993, Columbia Gulf notified the Commission that it accepted the Settlement and filed rates to be applicable to settling parties with a proposed effective date of October 1, 1993. Columbia Gulf further states that refunds were made to consenting parties on October 25, 1993, and a refund report concerning such refunds was filed on November 24, 1993.

On May 5, 1994, the Cities filed a motion for confirmation of status as supporting parties to the Settlement. The Cities' motion was unopposed and was granted by the Commission order issued on June 22, 1994. This refund report addresses the refunds made to the Cities as supporting parties.

Columbia Gulf states that it computed the refunds to the Cities in accordance with the terms of Article I, Section E of the Settlement. The principal refund represents the difference between the amounts computed under settlement rates and the rates actually charged those customers for gas service during the refund period. Included in each refund amount is interest through July 28, 1994, computed in accordance with Section 154.67(c)(2) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before October 6, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-24550 Filed 10-4-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-212-013]

Stingray Pipeline Co.; Filing of Report of Refund

September 29, 1994.

Take notice that on June 15, 1994, Stingray Pipeline Company (Stingray), filed in Docket No. RP91-212, its Report of Distribution of Refunds for the period December 1, 1993 through March 31, 1994. Stingray states that it refunded $1,410,044.40 to its jurisdictional customers on May 17, 1994. Stingray further states that the refund is in compliance with the provisions of Article V of the Stipulation and Agreement approved by Commission Order issued February 16, 1994 in Docket No. RP91-212-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the § 385.211 of the Commission's Rules of Practice and Procedures. All such protests should be filed on or before October 7, 1994. Protests 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. 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. 94-24551 Filed 10-4-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-80-000]

Tarpon Transmission Co.; Change in Annual Charge Adjustment

September 29, 1994.

Take notice that on September 27, 1994, Tarpon Transmission Company (Tarpon) tendered for filing and acceptance the following tariff sheets to be a part of its FERC Gas Tariff, Original Volume No. 1:

Twelfth Revised Sheet No. 2A
Second Revised Sheet No. 2E
Fifth Revised Sheet No. 86A
Seventh Revised Sheet No. 96A

Tarpon states that the purpose of said filing is to revise its Annual Charge Adjustment surcharge in order to recover the Commission's annual charges for the 1994 fiscal year. Tarpon has requested that the Commission waive the 30 day notice requirement of Section 154.51 of the Commission's regulations and accept the tariff sheets to become effective on October 1, 1994 In the alternative, Tarpon requests an effective date of November 1, 1994 and has submitted alternate tariff sheets which reflect this later effective date.

Tarpon states that copies of the filing have been mailed to all jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 6, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–24552 Filed 10–4–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88–68–040, RP87–7–012, RP89–122–000 RP89–163–000, IN89–1–000 and IN89–1–001]

Transcontinental Gas Pipe Line Corp.; Filing of Report of Refund

September 29, 1994.

Take notice that on July 29, 1994, Transcontinental Gas Pipe Line Corporation (TGPL), filed its Report of Refunds in the above referenced dockets.

TGPL states that the refund is in compliance with the provisions of Paragraph D of Article IV of the Stipulation and Consent Agreement approved by Commission Order issued May 29, 1991 in the referenced proceedings. TGPL states that it refunded $11,200,822.31, including interest, to its historical sales customers in 36 monthly payments beginning August 1, 1991, and ending July 1, 1994.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before October 6, 1994. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–24553 Filed 10–4–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2607–001 North Carolina]

Duke Power Co.; Availability of Draft Environmental Assessment

September 29, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a subsequent license for the existing Spencer Mountain Hydroelectric Project, located on the South Fork Catawba River in Gaston County, North Carolina, near the city of Gastonia, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the existing and potential future environmental effects of the project and concludes that approval of the project would not be a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All comments should clearly show the following caption on the first page: SPENCER MOUNTAIN HYDROELECTRIC PROJECT, FERC NO. 2607.001. For further information, contact Kim A. Nguyen, Environmental Coordinator, at (202) 219–2841.

Lois D. Cashell,

Secretary.

[FR Doc. 94–24546 Filed 10–4–94; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Project No. 5984–000–NY]

Niagara Mohawk Power Corp.; Availability of Draft Environmental Assessment

September 29, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the Oswego Falls, located in Oswego, County, New York, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426. Please affix "Oswego Falls Project No. 5984–000" to all comments. For further information, please contact Edward Meyer (202) 208–7998.

Lois D. Cashell,

Secretary.

[FR Doc. 94–24547 Filed 10–4–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PL94–4–000]

Pricing Policy For New and Existing Facilities Constructed By Interstate Natural Gas Pipelines; Date and Procedures for Public Conference

September 29, 1994.

Take notice that a public conference in this proceeding will be held on November 4, 1994, in the Commission Meeting Room, 825 North Capitol Street, N.E., Washington D.C., 20426. The conference is to consider the methodologies to be used in setting rates for transportation service with regard to new and existing facilities constructed by interstate natural gas pipelines. The conference also is to examine whether revisions need to be made to the Commission's certificate procedures related to new construction, such as its at-risk construction policies, to provide greater guidance on rate design and construction approvals for individual projects. On July 28, 1994, the Commission issued a notice raising issues to be considered at the conference.[1] The Commission also invited comments on these issues to be filed by September 26, 1994, and

[1] 59 FR 39553 (Aug. 3, 1994).

numerous comments have been received.

Members of the Commission intend to participate in the public conference and will reserve time for questions and answers. Any person who wishes to make a formal presentation to the Commission should submit a request to the Secretary of the Commission no later than October 14, 1994. Each request should include the time anticipated for the presentation and any special equipment requirements. Every effort will be made to accommodate requests to make presentations, but, depending on the number of requests received, the Commission may have to limit participation. To provide a more productive conference, the Commission encourages those with similar views to coordinate their efforts and choose one spokesperson to make a statement on behalf of the group. After reviewing the presentation requests, a subsequent notice of the conference presentation schedule will be issued.

The Commission will provide for remote viewing of the conference in Hearing Room 1, 810 First Street, NE, Washington, D.C. In addition, if sufficient interest is shown, The Capitol Connection may broadcast the conference in the Washington, D.C. metropolitan area or nationally. Those interested in the local or national television broadcast should call The Capitol Connection at (703) 993–3100 no later than October 17, 1994. Requests from viewers outside of Washington, D.C., should be directed to Julia Morelli or Shirley Al-Jarani.

After the conference, participants and others may file written comments by December 5, 1994. An original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, and should refer to Docket No. PL94–4–000. All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 941 North Capitol Street, NE, Washington, D.C. 20426, during regular business hours.

All questions concerning the format of the conference should be directed to:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4120–B, 825 North Capitol Street, N.E., Washington, DC 20426, (202) 208–2294.

Lois D. Cashell,

Secretary.

[FR Doc. 94–24554 Filed 10–4–94; 8:45 am]

BILLING CODE 6717–01–M

Proposed Finding of No Significant Impact; Proposed Tokamak Physics Experiment, Princeton Plasma Physics Laboratory

AGENCY: U.S. Department of Energy.

ACTION: Proposed finding of no significant impact.

SUMMARY: The Department of Energy (DOE) has prepared this Proposed Finding of No Significant Impact (FONSI) on its proposal to construct and operate the proposed Tokamak Physics Experiment. This proposed finding is based on the DOE Tokamak Fusion Test Reactor Decontamination and Decommissioning Project and Tokamak Physics Experiment (TPX) Environmental Assessment (EA), DOE/EA–0813, August 1994, which evaluates the environmental effects of using the existing Tokamak Fusion Test Reactor (TFTR) systems and accessory facilities in the proposed construction and operation of the TPX. The purpose of the TPX is to develop fusion energy to compensate for dwindling supplies of fossil fuels and the eventual depletion of fissionable uranium used in present-day nuclear reactors. Proceeding with the TPX is contingent on use of existing TFTR systems and appurtenant facilities. Decontamination and decommissioning of the TFTR is an integral part of the scope of the proposed TPX; therefore both projects are evaluated in this EA.

Based on the analyses in the EA, the DOE believes that the proposed action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq. Therefore, the DOE is issuing a Proposed FONSI pursuant to the Council on Environmental Quality regulations implementing NEPA (40 CFR Parts 1500–1508) and the DOE NEPA implementing regulations (10 CFR Part 1021). DOE will consider comments received in making a final determination on whether to issue a FONSI or to prepare an environmental impact statement.

DATES: Comments on the proposed FONSI should be postmarked November 4, 1994, to ensure consideration. Comments postmarked after that date will be considered to the extent practicable.

ADDRESSES: Written comments on the proposed FONSI and requests for copies of the TPX EA should be directed to: Dr. W.S. White, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, (708) 252–2101.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the proposed project should be sent to: Milton D. Johnson, Manager, Princeton Area Office, U.S. Department of Energy, P.O. Box 102, Princeton, New Jersey 08542, (609) 243–3700.

For general information on the DOE NEPA review process, contact: Carol M. Borgstrom, U.S. Department of Energy, Office of NEPA Oversight (EH–25), 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Proposed Action

The proposed action is to use the existing TFTR systems and accessory facilities in the construction and operation of TPX, which would be primarily located inside the existing TFTR Test Cell. The TPX would require dismantlement and removal of all TFTR activated systems within the TFTR Test Cell Complex. Dismantlement and removal of nonradioactive and low activation components in areas such as the Test Cell Basement and the Hot Cell, would start immediately after the conclusion of the TFTR deuterium-tritium experiment, which is expected to conclude in Fiscal Year 1995. Cool-down of the Tokamak in the test cell will commence at that time.

The TPX is being proposed as a national facility for fusion energy research to be built at the Princeton Plasma Physics Laboratory (PPPL). Its primary mission is to develop the scientific basis for an economical, more compact, and continuously operating Tokamak in support of the design of an attractive demonstration fusion power plant.

Waste from decontamination and decommissioning would include stainless steel and aluminum structures, piping, copper coils, graphite tiles, solidified radioactive liquids, anti-contamination materials, and concrete rubble. Waste would be packaged into Department of Transportation (DOT) approved containers and transported to the DOE Hanford site in Richland, Washington, as are current PPPL wastes. Approximately 950 m^3 (33,500 ft^3) of waste weighing approximately 2270 metric tonnes (2500 tons) would also be disposed. Construction of a radioactive

waste storage building for temporary storage of radioactive waste and final preparation of some radioactive waste shipments would be required. This facility would be approximately 560 m^2 (6000 ft^2) in size, and would be constructed within the existing TFTR facility fence. A second storm water detention basin similar to and west of the existing detention basin would also be constructed.

Decontamination and decommissioning of the TFTR Test Cell could be completed in approximately 1.5 years, after a 2-year cool-down period. TPX construction would minimally overlap decontamination and decommissioning of TFTR facilities. The TFTR Test Cell Complex would then be available for the TPX approximately 3.5 years after termination of TFTR deuterium-tritium experiments. The total cost for the decontamination and decommissioning of the TFTR is estimated to be $86 million.

The construction and operation of the TPX would take place within the existing TFTR facility at Princeton Plasma Physics Laboratory (PPPL), with construction scheduled to begin in early FY–1998. The TPX conceptual design is based on the use of deuterium fuel, but does not preclude the potential upgrade and use of tritium fuel in the final year of operation. Existing TFTR facilities would be adapted and used by the TPX, including TFTR Test Cell Complex; ventilation exhaust vent and intake shafts; mockup building; tritium cleanup/waste handling area; field coil power conversion building; neutral beam power conversion building; radioactive waste systems space; office and technical support space; and miscellaneous PPPL support facilities. In addition to providing space for the TPX, the TFTR Test Cell Complex would provide shielding (via concrete walls, roof, and floor), and provide for confinement and handling of tritium-contaminated and/or radioactive components.

The cost for construction of the TPX is estimated at $500M (FY–93), with the construction period 1997 to 2000. New facilities to be constructed include TFTR Test Cell building modifications, a new Cryogenic Equipment building, tank yards for water cooling and cryogenic tanks, and a new electrical substation. The Test Cell building modifications would be internal and would not increase the existing external dimensions of the building. The Cryogenic Equipment building would be constructed as a standard industrial single-story building, totaling about 1000 m^2 (10,800 ft^2) in area. The tank yard construction would include approximately 2,130 m^2 (22,950 ft^2) of new tank yard areas for new gaseous helium tanks, liquid nitrogen storage tanks, water storage tanks, and truck-trailer access. This construction would take place on existing open space. The electrical substation construction would involve installation of a new 138 kV transmission line between the existing substation and the new substation. The new substation would be for transforming 138 kV power to 13.8 kV. A new electric power line would be constructed entirely on PPPL property.

Machine assembly would be scheduled for 1998, with the first operations during 2000. The TPX would be fueled with hydrogen and deuterium plasmas for 10 years; radiation generation would not be significant in terms of neutron activation of components or radiological doses. In deuterium operation, the peak fusion power would not exceed 140 kW. During long pulse deuterium operation, neutrons with energies of 2.45 mega electron volts (MeV) would be the primary neutrons produced, and annual production of these neutrons would be limited to 6.0×10^{21} neutrons. A smaller number of 14.1 MeV neutrons would be produced from deuterium-tritium fusion reactions with tritium produced from the deuterium-deuterium fusion reactions. The number of 14.1 MeV neutrons produced during deuterium operations would be approximately 2% of the number of 2.45 MeV neutrons produced.

The TPX facility would be capable of operating with deuterium-tritium plasmas during the last year of TPX operation. During deuterium-tritium operation, a fully-formed deuterium plasma would be developed (requiring up to roughly 1,000 seconds), into which tritium would be injected. Once tritium has been injected, the device would operate for 2 seconds with a peak fusion power of 15 MW, after which the plasma would be terminated. During the 2 seconds of deuterium-tritium operation, both 2.45 MeV neutrons and 14.1 MeV neutrons would be produced, from deuterium-deuterium and deuterium-tritium fusion reactions, respectively. Production of 2.45 MeV neutrons during deuterium-tritium operation would be approximately 1% of the 14.1 MeV neutron production rate. Operation of the Tokamak would be controlled to limit annual neutron production so that the site boundary dose restriction adopted by the project would not be exceeded. The deuterium-tritium phase (if used) would be limited to the last year of TPX operation. Small amounts of tritium, and air activation products would be released, and minor amounts of direct radiation would result from fusion neutrons and activated structural components of TPX.

Low-level solid radioactive wastes generated during TPX operations would consist of contaminated items (e.g., protective clothing) and solidified liquid wastes (tritiated water absorbed on desiccant and solidified liquid waste from the decontamination area). The volume of waste would be similar to that generated by TFTR operations, which was appropriated 7.4 m^3 per year for deuterium-deuterium operations, and is projected to increase during deuterium-tritium operations to 28.3 m^3 per year (1000 ft^3 per year). Wastes generated during TPX operations would be packaged to comply with applicable DOE and DOT requirements and is expected to be shipped to the DOE Hanford Reservation in Washington for disposal, as are current PPPL wastes.

Alternatives

Three alternatives were considered: (1) The proposed action, use of the TFTR facilities for the proposed construction and operation of the TPX at PPPL, (2) proposed construction and operation of the TPX at the Oak Ridge Reservation in Tennessee, and (3) no action. Location of the TPX at the Oak Ridge Gaseous Diffusion Plant, near Knoxville, Tennessee, would require construction of new support facilities including a new test cell, hot cell, waste handling and storage areas, field coil power conversion building, and cryogenic facilities. The additional cost and time would jeopardize the U.S. fusion program and make the TPX project infeasible. Under the no action alternative, decontamination and decommission of TFTR facilities would occur under current management practices, but may involve a longer delay between safe shutdown activities and commencement of decontamination and decommissioning activities. The longer delay would not fit within the current schedule to meet the construction of the TPX. This delay may in turn be followed by a 2–3 year period of delay, during which the TFTR facility would be in a state of protective custody. The TPX would not proceed under the no action alternative.

Environmental Impacts

The Environmental Assessment analyzed the impacts of the TFTR decontamination and decomissioning and TPX construction and operation on the environment and on the health and safety of workers and the public. Both routine operations and off-normal or accident scenarios were assessed. The

Environmental Assessment considered impacts to air quality, noise, water quality and quantity, aquatic and terrestrial ecology, threatened and endangered species, the visual environment, land use, historical and archaeological resources, socioeconomic environment, radiological conditions, and impacts of potential accidents. No significant environmental impacts associated with the proposed action are anticipated.

Activities associated with decontamination and decommissioning of the TFTR would not present any long-term or adverse nonradiological impacts to the public or the environment. It would result in minor impacts, consisting primarily of commitment of a small area of onsite land for the radioactive waste storage building and the second storm water detention basin. Construction of the radioactive waste storage building and storm water detention basin may result in a temporary small increase of effluent to Bee Brook, but would not exceed PPPL New Jersey Pollutant Discharge Elimination System permit or other State or federal regulatory requirements.

Potential radiological impacts of TFTR decontamination and decommissioning would not represent potential impacts greater than those from current PPPL operations, which have had no significant consequences. Decontamination and decommissioning activities would result in a dose of less than the adopted design objective of 10 mrem per year to any member of the public from all project sources. It would result in minor releases of activated metal and tritium to the atmosphere and sewer system. The maximum calculated individual public dose would be 2.3 mrem per year, and the increased probability of incremental lifetime cancer risk associated with exposure from this dose would be 1.1 chances in 1,000,000. This very low calculated effect means insignificant risk to the public. Occupational doses would not exceed the PPPL administrative limit of 1 rem per year, which is less than the DOE limit of 5 rem per year.

Operational occurrences during decontamination and decommissioning that could result in the accidental release of tritium, activated gases, or solids consist primarily of component failures and human error, and any releases would be limited by inventories within the components. The largest calculated dose to the public from decontamination and decommissioning accident scenarios, including beyond design basis accidents, is 390 mrem to a maximally exposed member of the public. The increased probability of incremental lifetime cancer risk associated with exposure from this dose would be 195 chances in 1,000,000.

The TPX would not present long-term or adverse nonradiological impacts to the public or the environment at the PPPL site. Other TPX nonradiological impacts would be temporary, except for the commitment of a small parcel of land for construction of new TPX facilities. Construction impacts due to test cell modifications and construction of the cryogenic equipment building, tank yards, and electric substation would be minor. All construction would be built on land already committed to DOE operations. This construction would all be within the current land use restrictions governing PPPL site agreements with the DOE. For a construction project of this scope, the potential exists for 2.5 lost workday cases (work related injuries that require time-off from work) over the construction period. Also there would be a 10% increase in the current amount of site traffic, which would increase the potential for on-site vehicular accidents slightly.

Radiological impacts from the TPX would not exceed current impacts from PPPL operations, which has not been shown to cause incremental lifetime cancer risk associated with exposure. Potential environmental, safety, and health radiological impacts were evaluated for both deuterium and possible future tritium operations. Atmospheric releases of tritium and activation products constitute the potential sources of radiological exposure to members of the public. Maximum projected atmospheric releases would result in annual effective dose equivalents of 1.2 mrem and 4.6 mrem to a hypothetical maximally-exposed individual at the site boundary during deuterium and tritium operations, respectively, with a maximum increased probability of incremental lifetime cancer risk associated with exposure of 2.3 chances in 1;000,000. These conservatively-calculated dose equivalents are less than the most restrictive limit for public doses caused by airborne releases (the EPA limit of 10 mrem per year). Direct radiation from the TPX would be mitigated with shielding to keep the total effective dose equivalent from all sources at the site boundary within the project design objective of less than or equal to 10 mrem per year. This design objective effective dose equivalent is well below the DOE limit of 100 mrem per year to members of the public from routine DOE operations.

Normal TPX deuterium-tritium operations would result in total estimated collective effective dose equivalents of 7.5 person-rem per year and 24 person-rem per year to the projected population within the 80 km (50 mi) radius area surrounding PPPL during deuterium and tritium operations, respectively. These doses amount to an average effective dose equivalent of less than 0.002 mrem per year to each individual in the assessment area and would result in less than 1 health effect in the exposed population. On the basis of the collective effective dose equivalent, incremental lifetime cancer risk associated with exposure attributable to TPX operations are not expected to occur. A collective effective dose equivalent of 24 person-rem per year represents approximately .002% of the collective effective dose equivalent from natural background radiation in the area (exclusive of radon). Occupational doses to workers during TPX operations would result from direct radiation and small releases of tritium and activated gases. Operational procedures, administrative controls and monitoring would ensure that occupational doses are kept below regulatory limits and as low as reasonably achievable.

Accidental releases of radioactive material could hypothetically result from (a) Natural phenomena (e.g., earthquakes), (b) accidents with external origin (e.g., airplane crashes), (c) shipping accidents (i.e., accidents involving the transportation of radioactive material), and (d) operational occurrences (e.g., tritium leaks). All TPX confinement boundaries would be capable of maintaining integrity for design basis natural phenomenon, and therefore a release due to a natural phenomena event is extremely unlikely.

Accidents with external origins and transportation accidents involving small quantities of radioactive material would present little risk to the public and the environment. Transportation accidents involving larger quantities of radioactive material, form example tritium, could occur; however, the accidental release of significant quantities of radionuclides has a very low probability because of the demonstrated integrity of the approved containers that would be used.

TPX operational occurrences that could result in the accidental release of tritium, activated gases, or solids consist primarily of component failures and human error. Releases associated with these occurrences would be limited by component inventories. The maximum calculated individual dose from accident scenarios is 390 mrem, which is well below the DOE siting guideline

limit of 25 rem. Incremental lifetime cancer risk associated with exposure resulting from the collective doses would represent a negligible increase in the total number of such health effects in the exposed population from all natural background radiation doses. The largest potential radiological impacts to the public from TPX accidents, including beyond design basis accidents, are below regulatory limits.

After TPX operation has ended, a proper NEPA review would be conducted for the decontamination and decommissioning of the facility. It is expected that the waste material resulting from decontamination and decommissioning activities would qualify as low-level radioactive waste and would be disposed of at an appropriate DOE waste disposal facility.

TFTR operations would be discontinued prior to TFTR decontamination and decommissioning. Cumulative effects would be minor and would represent a continuation of, rather than a change in, any impacts (negative and positive) associated with TFTR operations. Commitment of 560 m^2 (6,000 ft^2) of land for the construction of the radioactive waste storage building and 1,300 m^2 (14,000 ft^2) for construction of a second storm water detention basin would represent a long-term commitment of land use. Environmental releases of small amounts of residual tritium during decontamination and decommissioning would not add measurably to current low levels.

No adverse long-term environmental effects are expected from normal operations of the TPX. Tritium releases during normal operations would not constitute a measurable contribution to background radiation levels, because of the small amount of tritium to be released, its relatively short half-life (12.3 years), and rapid dispersion in the environment. There are currently no measurable cumulative impacts occurring between PPPL and other facilities in the region, and none would be expected for the proposed TPX. Releases of radionuclides to the atmosphere by commercial operations (such as hospitals and research laboratories) near PPPL are not detectable in environmental samples collected around PPPL; analyses show no radionuclide concentrations above background levels.

Invitation To Comment

DOE invites the public, including states which host DOE facilities and any Indian tribe that might be affected by the proposed action, to comment on this proposed FONSI. Please direct any comments to Dr. W.S. White at the address presented in the previous section.

In accordance with 40 CFR 1501.4(a)(2)(i) and 10 CFR 1021.322(d), DOE is making this proposed FONSI available for public review for 30 days. Copies of the EA are available upon request at the address given below. DOE will also make public comments received on this proposed FONSI available to the public. The EA and other material pertaining to this proposal are available for public review at the DOE public reading rooms listed below.

New Jersey, Princeton Plasma Physics Laboratory Library, James Forrestal Campus, Route 1, Princeton, New Jersey 08542, (609) 243–3565.

District of Columbia, U.S. Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room 1E–90, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6020.

For information on the availability of specific documents and hours of operation, please contact reading rooms at the telephone numbers provided.

Proposed Determination

Based on the analyses in the Environmental Assessment, the DOE believes that the proposed action at the PPPL is not a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA, and that an environmental impact statement is not required. DOE will make its final determination on whether to issue a FONSI or prepare an environmental impact statement after the 30-day public review period.

Issued in Argonne, Illinois, this 21st day of September, 1994.

John P. Kennedy,

Assistant Manager for Safety and Technical Support, Chicago Operations Office.

[FR Doc. 94–24580 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed the Week of June 17 Through June 24, 1994

During the Week of June 17 through June 24, 1994, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 17 Through June 24, 1994]

Date	Name and location of applicant	Case No.	Type of submission
June 22, 1994	Texaco/South Side Texaco, Albany, GA	RR321–159	Appeal of an Information Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The September 26, 1991 Dismissal Letter (Case No. RF321–2053) issued to South Side Texaco regarding the firm's Application for refund submitted in the Texaco refund proceeding would be modified.
June 23, 1994	Lee Hy Paving Corporation, Los Angeles, CA	RR272–137	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The May 23, 1991 Dismissal Letter (Case No. RF272–64964) issued to Lee Hy Paving Corporation regarding the firm's application for refund submitted in the Crude Oil Refund proceeding would be modified.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of June 17 Through June 24, 1994]

Date	Name and location of applicant	Case No.	Type of submission
June 23, 1994	The Timken Company, Los Angeles, CA	RR272–136	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The November 7, 1990 Dismissal Letter (Case No. RF272–497) issued to The Timken Company regarding the firm's application for refund submitted in the Crude Oil Refund proceeding would be modified.
June 24, 1994	Farmco, Inc., Tribune, KS	LEE–0125	Exception to the Reporting Requirements. If granted: Farmco, Inc. would not be required to file Form EIA–782B, "Resellers/Retailers Monthly Petroleum Produce Sales Report."
June 24, 1994	Linda J. Carlisle, Gulfport, MS	LFA–0394	Appeal of an Information Request Denial. If granted: The May 27, 1994 Freedom of Information Request Denial issued by the Office of Utility Systems Division would be rescinded, and Linda J. Carlisle would receive access to the information concerning the DOE RAPIP Program on Electric and Magnetic Fields.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/Name of refund applicant	Case No.
June 17 thru 24, 1994	Crude Oil Refund	RF272–97059 thru RF972–97229.
June 20, 1994	Aloho Airlines, Inc	RF344–16.
Do.	Hilltop Texaco	RF321–21007.
Do.	Sater's Texaco	RF321–21008.

[FR Doc. 94–24581 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders the Week of June 20 through June 24, 1994

Office of Hearings and Appeals

During the Week of June 20 through June 24, 1994 the decisions and orders summarized below were issued with respect to applications for refund or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Ivan J. Broussard, 6/21/94, LFA–0383

Ivan J. Broussard filed an Appeal from a determination issued to him by the Privacy Act Officer of the Idaho Operations Office (Idaho) of the Department of Energy (DOE) in response to a request Mr. Broussard had submitted under the Privacy Act. In that determination, Idaho released to Mr. Broussard his entire Personnel File and portions of his Personnel Security File. Idaho withheld under Section 552a(k)(2) of the Privacy Act portions of Broussard's Personnel Security File which Idaho termed "confidential source information." In considering the Appeal, the DOE found that Idaho had not adequately justified the application of Exemption (k)(2) to the information withheld from Mr. Broussard. Therefore, the DOE remanded the matter to Idaho with instructions to explain why Exemption (k)(2) applies to the facts of this case, and/or consider, and adequately justify if necessary the application of other exemptions to the facts at issue.

KECI Corporation, 6/20/94, LFA–0382

Keci Corporation filed an Appeal from a denial by the Richland Operations Office (DOE/RL) of its request for documents concerning a whistleblower complaint that had been filed by a Kaiser Engineers Hanford contractor employee, Mr. George Lengas. DOE rejected Appellant's claim that Exemption 6 could never protect the requested information from disclosure, but remanded the Appeal to DOE/RL because the determination failed to describe the withheld documents or to state with particularity the justification for withholding such documents. On remand DOE/RL will either release the requested documents or issue a new determination which contains a descriptive index and specific justification for withholding the requested documents.

Williams & Trine, P.C., 6/24/94, LFA–0884

Williams & Trine, P.C. filed an Appeal from a determination issued to the law firm on April 22, 1994, by the Manager/FOI Authorizing Official of the Rocky Flats Office of the Department of Energy (DOE). In that determination, the Manager stated that the DOE did not find any documents responsive to the appellant's information request under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE confirmed that the Manager followed procedures which were reasonably calculated to uncover the requested information. Accordingly, the DOE denied the law firm's request.

Request for Exception

Pledger Oil Co., Inc., 6/24/94, LEE–0080

Pledger Oil Co., Inc. (Pledger) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering Pledger's request, the DOE found that the firm was not experiencing a gross inequity or serious hardship. On April 8, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Pledger's Application for Exception.

Refund Applications

Donco Carriers, Inc., 6/20/94, RR272–130

Bassman, Mitchell & Alfano, Chartered, filed a Motion for Reconsideration on behalf of Donco Carriers, Inc. (Donco) and McMickle & Edwards in the Subpart V crude oil refund proceeding. The Motion requested a modification of the estimation technique used in the Supplemental Order issued on April 5, 1994, which partially rescinded the original refund granted to Donco on November 30, 1993. Bassman argued that Donco based its gallonage claim on its dollar purchases according to Interstate Commerce Commission (ICC) reports which exclude taxes. Therefore, Bassman argues that the price per gallon figures used to convert the dollar purchases to gallon should also exclude taxes. The DOE found this argument to be convincing and used tax-excluded prices when revising the estimation technique used to calculate the gallonage purchase. The applicant received an additional refund.

Good Hope Refineries/Exxon Company, USA., 6/22/94, RF339–18

The DOE issued a Decision and Order granting an Application for Refund filed in the Good Hope Refineries special refund proceeding on behalf of Exxon Company, USA, a purchaser of covered Good Hope petroleum products during the refund period. In the Decision, the DOE determined that during the consent order period (August 19, 1973 to July 31, 1976) Exxon's purchases from Good Hope were made on a spot basis. Exxon was, therefore, found ineligible for a refund based on the allocation of total Good Hope overcharges (2.0854%) calculated by ERA and listed in the Good Hope audit file. The refund period, however, extends beyond the time frame covered by the ERA audit, until July 31, 1979; and Exxon had established 32,518,051 gallons of regular Good Hope purchases made after July 1976 and before August 1979. The firm was, therefore, found eligible for a volumetric refund under the mid-level presumption of injury and its Application for Refund was granted for $50,000 plus interest.

Nashua Corporation, 6/21/94, RF272–25435, RD272–25435

The DOE issued a Decision and Order granting an Application for Refund filed by Nashua Corporation (Nashua), a manufacturer of paper coatings, in the Subpart V crude oil refund proceeding. A group of States and Territories (States) objected to the application on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objections, the States claimed that in 1979 the pulp and paper industry experienced record sales and profits, and that in 1973 and 1974 the return on shareholders' equity increased. The States further asserted that while energy costs increased during the 1970s, the pulp and paper industry was able to reduce its petroleum costs unit through energy conservation and use of alternate energy sources. Specifically with respect to the applicants, the States claimed that Nashua's sales and net earnings increased throughout the period of crude oil price controls. In addition, the States submitted an affidavit of an economist stating that, in general, the pulp and paper industry was able to pass through increased petroleum costs. In response to the State's Objection, Nashua argued that the States inappropriately relied on generalizations about the pulp and paper industry. Moreover, Nashua stated that it is not a pulp and paper manufacturer, but is in the coated paper products business. The applicant submitted an affidavit of the President, Chief Executive Officer and Chairman of Nashua, stating that the company's products were sold in a highly competitive market, forcing Nashua to absorb increased product costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user and that the applicant should receive a refund. The DOE also denied the States' Motion for Discovery, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $17,680.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Randy's Service Station, *et al*	RF304–15017	06/20/94
Clark Oil & Refining Corp./Watkins Oil Company, Inc	RF342–7	06/21/94
Shefond Oil, Inc	RF342–227	
Crusader Candle Company, *et al*	RF272–91659	06/22/94
Erie Lackawanna Railway Co., *et al*	RF272–77397	06/21/94
Eureka Crude Purchasing	RF272–69878	06/23/94
Franklin County Farm Bureau, *et al*	RF272–93815	06/24/94
Gulf Oil Corporation/Blossman Gas, Inc	RF300–15827	06/23/94
Gulf Oil Corporation/Chappell's Gulf #1	RF300–14318	06/23/94
D&C Diagnostic Repairs	RF300–15671	
Gulf Oil Corporation/Dow Chemical Company	RF300–20306	06/22/94
Gulf Oil Corporation/Lock Haven Realty Co., Inc	RF300–5915	06/20/94
Candor Petroleum	RF300–5916	
McConnell Fuel Oil Co	RF300–8421	
John Eggers Fuel, Inc	RF300–21791	
Gulf Oil Corporation/Margate Auto Service Center, *et al*	RF300–20115	06/23/94
Gulf Oil Corporation/McLaren Silkworth Oil, *et al*	RRF300–18395	06/20/94
Gulf Oil Corporation/Winston C. Bresett	RR300–254	06/21/94
Kaplan & Sons Construction, *et al*	RF272–78324	06/21/94
Mead Corporation	RF272–66380	06/24/94
Mead Corporation	RF272–66380	
Texaco Inc./Abbie Lewis Texaco Service Station	RF321–11053	06/22/94
Texaco Inc./Bill Stephens Texaco, *et al*	RF321–12414	06/20/94
Texaco Inc./Brink's Inc., *et al*	RF321–4047	06/20/94
Texaco, Inc./Crest Hill Texaco	RF321–18481	06/20/94
Billy Boy Texaco	RF321–18482	
Billy Boy Texaco	RF321–18483	

Texaco, Inc./Klein's Texaco Service Station, *et al*	RF321–19631	06/20/94
Texaco, Inc./Richard Neal Texaco	RF321–21003	06/22/94
Texaco, Inc./Santikos Texaco	RF321–10960	06/24/94
Texaco Inc./The Dahl Oil Co., Inc	RF321–7199	06/20/94
Automatic Comfort Corp	RF321–14326	
W.H. Scheel, Inc	RF321–18579	
Warren Transportation	RC272–237	06/20/94
Western Asphalt, Inc	RA272–59	

Dismissals

The following submissions were dismissed:

Name	Case No.
Bill's Gulf Station	RF300–84336
Chester A. Polling, Inc	RF272–92306
City of Bartow	RF272–84790
Consolidated Aluminum Co	RF272–91823
Eladio Saenz Texaco	RF272–95269
Evansville Community S.D	RF272–84311
Frank's Auto Repair	RR272–95283
Gulf Wholesale	RR300–153
Haas Texaco	RF321–19102
Hubert E. Glass	RF272–95286
J&W Tire Sales	RF272–95273
Jefferson Smurfit Corp	RF272–92371
John M. Eaves	LFA–0379
L.W. Flusche	RF272–95279
Lonnie M. Stewart	RF272–95274
M&A Petroleum	RF272–95270
Major Oil Company	RF321–12661
Massachusetts Hospital School.	RF272–86745
McMinn Texaco	RF321–14793
McMinn Texaco	RF321–14792
Municipality of Ft. Yukon	RF272–84336
Raymond Brockett	RF321–14292
Raymond Brockett	RF321–14291
Republic Taxi Company	RF272–55465
Silsbee Butane Company, Inc.	RF272–95278
Volvo GM Heavy Truck	RF272–92369
Wellman Oil Co	RF321–14293
Zip Car Wash	RF272–95268

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–24586 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Proposed Decision and Order the Week of July 4 through July 8, 1994

Office of Hearings and Appeals

During the week of July 4 through July 8, 1994, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, NW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Petroleum Products, Inc. Charleston, WV, Lee–0087 Reporting Requirements

Petroleum Products, Inc. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that Petroleum Products was a certainty firm and therefore could only be granted relief if it were experiencing extreme hardship. The DOE determined that it was not. Accordingly, on July 5, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–24582 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders the Week of July 25 through July 29, 1994

Office of Hearings and Appeals

During the week of July 25 through July 29, 1994, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Betty M. Daley, 7/28/94, LFA–0396

Mrs. Betty M. Daley filed an Appeal of the adequacy of a search for the medical records of her husband (a deceased former Oak Ridge employee) under a Request for Information which she had submitted under the Freedom of Information Act. The late Mr. Daley had been employed at Oak Ridge National Laboratory from March 1944 until his retirement in September 1985. In considering the Appeal, the DOE found that the Oak Ridge Field Office had performed a search reasonably calculated to recover responsive materials because records were found from the period June 1947 through September 1985, even though no responsive materials were found from his initial employment in March 1944 through May 1947.

Beulah B. Carney, 7/29/94, LFA–0401

Mrs. Beulah B. Carney appealed the adequacy of the search conducted by the DOE Oak Ridge Facility for her late husband's personnel records. The

Authorizing Official subsequently discovered documents proving that these personnel records were destroyed as part of routine document destruction. The OHA ordered that the documents pertaining to the destruction of the records be released to the requester and in all other respects denied the request.

Government Accountability Project, 7/29/94, LFA–0398

The Government Accountability Project (GAP) filed an Appeal from a partial denial by the Oak Ridge Operations Office (Oak Ridge) of a Request for Information which it had submitted under the Freedom of Information Act (FOIA). GAP had requested billing statements submitted by outside counsel to DOE contractors. In considering the Appeal, the DOE found that while some of the information that had initially been withheld under FOIA Exemption 4 should have been released to the public, some of the information requested by the Appellant was properly withheld under Exemption 4 since it was both privileged and confidential. Accordingly, the Appeal was remanded to Oak Ridge for further processing.

Marilyn Cribb Stanley, 7/28/94, LFA–0399

Marilyn Cribb Stanley filed an Appeal from a determination issued to her on June 20, 1994, by the Oak Ridge Operations Office (Oak Ridge) which denied a request for information which she had submitted under the Freedom of Information Act. The request sought records relating to the late Mary Avery Cribb, wife of a contractor employee at Oak Ridge Laboratory during the 1940s. Oak Ridge stated that it did not possess any responsive documents, and the Appeal challenged the adequacy of the search. In considering the Appeal, the DOE found that Oak Ridge followed procedures which were reasonably calculated to uncover the material sought. Accordingly, the Appeal was denied.

Robert Heitmann, 7/29/94, LFA–0397

Robert Heitmann filed an Appeal from a determination issued to him on June 14, 1994, by the Albuquerque Operations Office (AL) which denied a request for information which he had submitted under the Freedom of Information Act. The request sought records relating to an alleged incident at the Travis School involving an airplane crash and atomic weaponry. AL stated that it did not possess any responsive documents, and the Appeal challenged the adequacy of the search. In considering the Appeal, the DOE found that AL followed procedures which were reasonably calculated to uncover the material sought. Accordingly, the Appeal was denied.

Texas Instruments, Inc., , 7/28/94, LFA–0395

Texas Instruments, Inc. (TI) filed an Appeal from a determination issued by the Oak Ridge Operations Office (Oak Ridge) in response to TI's request under the Freedom of Information Act. In the Appeal, TI claimed that the search by Oak Ridge was inadequate. TI cited in support of its argument an incident in which a TI employee allegedly saw a stack of responsive documents that were not released.

In denying the Appeal, the DOE found that the incident did not provide a basis for believing that responsive documents had been withheld. The DOE also found that Oak Ridge had adequately searched for documents.

Whistle Blower Proceeding

Francis M. O'Laughlin, 7/29/94, LWA–0005

Francis M. O'Laughlin (O'Laughlin) filed a complaint under the DOE's Contractor Employee Protection Program, 10 C.F.R. Part 708, contending that reprisals were taken against him after he raised concerns relating to health and safety with Boeing Petroleum Services, Inc. (BPS), a DOE contractor. The alleged reprisals included wrongfully denying O'Laughlin a management position to which he ostensibly was entitled, and later taking adverse personnel action against O'Laughlin which included a demotion and corresponding salary reduction. Pursuant to O'Laughlin's request under 10 CFR 708.9(a), a hearing in this matter was conducted by an Office of Hearings and Appeals Hearing Officer on May 18 and 19, 1994, in New Orleans, Louisiana. In considering the transcript of testimony taken at the hearing and the pleadings filed on behalf of O'Laughlin and BPS, the Hearing Officer determined that O'Laughlin had failed to establish that he actually disclosed information to BPS which evidenced his good faith belief that there was a substantial and specific danger to health or safety. 10 CFR 708.5(a)(1). Accordingly, in the DOE's Initial Agency Decision, O'Laughlin's request for relief under Part 708 was denied.

Request for Exception

R&R Oil, Inc., 7/27/94, LEE–0079

R&R Oil, Inc. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, exception relief was denied.

Implementation of Special Refund Procedures

Telum, Inc., 7/25/94, LEF–0114

The DOE issued a Decision and Order setting forth refund procedures to distribute $56,149.35 plus interest, received as a result of a Consent Order between Telum, Inc. and the DOE. The Decision sets forth refund application procedures for the customer who purchased middle distillates from Telum, Inc. during the period from December 1, 1973 through April 30, 1974. Specific information regarding the data to be included in the refund application is discussed in the Decision.

Refund applications

Barrick Enterprises, Inc., 7/28/94, RF272–92432

The DOE issued a Decision and Order concerning the Application for Refund of a claimant in the Subpart V crude oil overcharge refund proceeding. The DOE determined that the applicant resold the refined petroleum products that formed the basis of its application and thus passed on the costs of any crude oil overcharges to its customers. Therefore, the DOE concluded that the claimant was not injured by any of the overcharges associated with the gallons that it purchased. Accordingly, the Application for Refund was denied.

Burt County Cooperative Company, et al., 7/28/94, RF272–91445 et al.

The DOE issued a Decision and Order denying seven Applications for Refund filed by the National Bank for Cooperatives (CoBank) in the crude oil refund proceeding on behalf of seven local agricultural cooperatives no longer in operation. CoBank claimed a right to apply on behalf of these cooperatives based on security agreements entered into with each of them. These security agreements listed specific assets, accounts receivable, equipment and leaseholds as collateral with CoBank. However, none of these security agreements listed oil overcharge refunds as one of the secured items. The security agreements did list deferred patronage refunds from Farmland Industries, a regional cooperative, as a secured item, but the Decision determined that deferred patronage refunds from a regional cooperative are not oil overcharge refunds for which local cooperatives are eligible on behalf of their member/owners.

Texaco Inc./Donley's Texaco Service Station, 7/28/94, RF321-16838, RF321-21012, RF321-21013

The DOE issued a Decision and Order concerning an Application for Refund submitted by Donley's Service Station (Donley's), an indirect purchaser of Texaco motor gasoline. Donley's requested that the refund be paid to the firm, which is a partnership currently owned by four partners. However, in accordance with prior Decisions, the DOE determined that the partners during the refund period were eligible for the Donley's refund in proportion to their ownership interest, except for those partners who had transferred their right to a refund. One of the Donley's partners both currently and during the refund period owns 75% of the shares of the corporation that supplied gasoline to Donley's. The DOE decided not to treat the two firms as a single firm for purposes of determining the applicable presumption of injury available to Donley's. However, since the supplier had received a refund for its direct purchases of Texaco gasoline, the Donley's refund for the common owner was reduced by 75% so that he would not receive two refunds for the same gallons. The total of the refunds granted to the three Donley's partners who had joined in the outlet's refund claim was $7,285 ($5,192 principal plus $2,093 interest).

Texaco Inc./Lehigh Service & Supply, 7/29/94, RF321-19561, RF321-19562, RF321-19563, RF321-19564

The DOE issued a Decision and Order concerning four Applications for Refund filed in the Texaco Inc. special refund proceeding by four partners on behalf of Lehigh Service & Supply, a reseller located in Hazleton, Pennsylvania. Two of these partners had previously received a refund for purchase made by Lehigh Gas & Oil, the firm that supplied Lehigh Service & Supply with Texaco product. The DOE determined that these two partners were ineligible for a refund for purchases made by Lehigh Service & Supply because they had already received a refund for these gallons, and accordingly, these two Applications for Refund were denied. The other two applicants received refunds in proportion to their ownership interest in Lehigh Service & Supply. The total amount of refunds granted in this Decision was $2,366 ($1,686 principal plus $680 interest).

Texaco Inc./Ryder Energy Distribution, 7/29/94,RF321-14683

The DOE issued a Decision and Order concerning an Application for Refund filed in the Texaco Inc. special refund proceeding on behalf of Ryder Energy Distribution (Ryder). Ryder is the fuel purchasing and distribution subsidiary of Ryder Systems, a nationwide truck leasing company. In its application, Ryder requested a refund based on the end-user presumption of injury for its Texaco purchases which were consumed by its own fleet of trucks. It also claimed a refund under the medium-range presumption of injury based on the purchases it made from Texaco which it later resold to its leasing customers. The DOE determined that, in accordance with *Gulf Oil Corp./Ryder Energy Distribution*, 21 DOE ¶ 85,345 (1991), Ryder must be considered a retailer, since as a vehicle rental firm, it was involved in the retail sale of petroleum products. Furthermore, the DOE determined that it would be inconsistent with the adoption of a $50,000 maximum refund under the medium-range presumption of injury for Ryder to receive in excess of that amount without having to prove injury. Accordingly, Ryder was awarded $50,000, plus interest, under the medium-range presumption of injury.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Argyle Ranch, Inc	RF272-48097	07/29/94
Atlantic Richfield Company:		
Nycrest Corporation	RF304-13463	07/27/94
Newman Oil Co., Inc	RF304-13464	
Minuteman Fuels, Inc	RF304-13465	
Atlantic Richfield Company:		
Ray's Arco *et al*	RF304-14625	07/27/94
Atlantic Richfield Company:		
Town and Country Gas, Inc *et al*	RF304-14225	07/29/94
Atlantic Richfield Company:		
W.L. Mazzia	RF304-13999	07/25/94
Berrien County Farm Bureau Oil Co. *et al*	RF272-91282	07/25/94
Clark Oil and Refining Corp.:		
Midwest Petroleum Company	RF342-173	07/29/94
Earle's Clark Super 100	RF342-304	
Cobitco, Inc	RF272-94577	07/26/94
Forward Corp. *et al*	RF272-77612	07/29/94
Golden State Foods	RF272-94818	07/26/94
Gulf Oil Corporation:		
Sylvester's Crill and Palm Ave	RF300-15573	07/27/94
Crill and Palm Gulf	RF300-21787	
Metropolitan Petroleum and Fuel:		
Jorge R. Ruiz	RF349-8	07/29/94
Oasis Truck Stop	RF349-10	
Alfaro 66	RF349-11	
Penske Truck Leasing Co., L.P	RF272-92418	07/26/94
Rock County Buick Company	RF272-90801	07/26/94
Shell Oil Company:		
Kennel's Service Station	RR315-8	07/29/94
Texaco's, Inc.:		
B and H Texaco *et al*	RF321-7698	07/27/94
Texaco, Inc.:		
Cloninger Texaco Service	RF321-9036	07/27/94
Texaco, Inc.:		
D.A. Kessler Construction Co. *et al*	RF321-7400	07/29/94

Texaco, Inc.:		
J&M Self-Serv Unit 1	RF321–14095	07/27/94
J&M Self-Serv Unit 2	RF321–14096	.....
J&M Self-Serv Unit 3	RF321–14097	.....
J&M Self-Serv Unit 4	RF321–14098	.....
Texaco, Inc.:		
Mobil Oil Corporation	RF321–17122	07/29/94
Texaco, Inc.:		
Roy's Food Market *et al*	RF321–459	07/29/94
Texaco's, Inc.:		
Smith Texaco *et al*	RF321–508	07/26/94
Texaco, Inc.:		
Stan's Texaco *et al*	RF321–18307	07/27/94
Township of Florence *et al*	RF272–94816	07/26/94
W.H. Kneas Lumber Company	RF272–82421	07/26/94
Walsh Moving Service *et al*	RF272–94814	07/29/94

Dismissals

The following submissions were dismissed:

Name	Case No.
Avacado Texaco	RF321–7179
Carroll County	RF272–85932
Crain Texaco	RF321–8231
Esch & Associates	RF300–19297
Fitzpatrick Oil Co	RR315–9
Glen Petroleum Corporation	RF336–43
Joe Rainer's Texaco	RF321–11350
Joe's Texaco	RF321–7161
John Papadopoulos	RF321–7383
Leyden Texaco Service	RF321–9278
M S D Decatur Township	RF272–96470
Miller's Texaco	RF321–13624
Missouri Pacific Railroad	RF321–12844
Missouri Pacific Railroad	RF321–12843
North Main Texaco	RF321–7378
Parry Tire Co	RF321–19968
Parry Tire Co	RF321–19969
Penske Truck Leasing Co., L.P.	RF321–19913
Post Office Texaco	RF321–7379
R & W Gas Co., Inc	RF321–1751
Ram Tire Co., Inc	RF321–6388
Randy Pate	RF321–9369
Rinker Materials Corp	RF321–20102
Riverton Corporation	RF272–93342
Ron's North Texaco	RF321–13622
Roscoe's Texaco	RF321–12539
Smith International, Inc	RF272–93004
Thom Zinson & McWhite	RF300–16773
Troiano Fuel Oil Co., Inc	RF321–19950
Trombly Motor Coach Service	RF272–94731
Union County	RF272–85389
Village of Union	RF272–85917
Woods' Seacrest Texaco	RF321–12136

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–24585 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Proposed Decision and Order the Week of June 27 through July 1, 1994

Office of Hearings and Appeals

During the week of June 27 through July 1, 1994, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals

Ewing Oil Co., Hagerstown, MD, Lee–0084, Reporting Requirements

Ewing Oil Company filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that Ewing Oil was a certainty firm and therefore could only be granted relief if it were experiencing extreme hardship. The DOE determined that it was not. Accordingly, on June 30, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–24583 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Issuance of Proposed Decisions and Order the Week of June 20 through June 24, 1994

During the week of June 20 through June 24, 1994, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-34, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: September 27, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Carter Oil Co., Sheffield, AL, Lee-0100, Reporting Requirements

The Carter Oil Company (Carter) filed an Application for Exception from the provision of filing Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The Exception request, if granted, would permit Carter to be exempted from filing Form EIA-782B. On June 24, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request be denied.

Chambers Oil Co., Beckley, WV, Lee-0116, Reporting Requirements

The Chambers Oil Company (Chambers) filed an Application for Exception from the provision of filing Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The Exception request, if granted, would permit Chambers to be exempted from filing Form EIA-782B. On June 24, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request be denied.

[FR Doc. 94-24584 Filed 10-4-94; 8:45 am]

BILLING CODE 6450-01-P

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $21,764.57, plus accrued interest, in refined petroleum overcharges obtained by the DOE under the terms of a Remedial Order issued to Aptos Shell, *et al.* (Aptos) Case Nos. LEF-0092, *et al.* The OHA has determined that the funds will be distributed in accordance with the provisions of 10 C.F.R. Part 205, Subpart V and 15 U.S.C. § 4501, the Petroleum Overcharge Distribution and Restitution Act (PODRA).

DATES AND ADDRESSES: Applications for Refund must be filed in duplicate, addressed to Aptos Shell Special Refund Proceeding and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications must reference Case Number LEF-0092 and be postmarked on or before June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director Office of Hearings and Appeals 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-2400

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute to eligible claimants $21,764.57, plus accrued interest, obtained by the DOE under the terms of a Remedial Order that the DOE issued to Aptos Shell, *et al.* (Aptos) on December 14, 1981. Under the Remedial Order, Aptos was found to have violated the Federal petroleum price and allocation regulations involving the sale of refined petroleum products during the relevant audit periods.

The OHA will distribute the Remedial Order funds in a two stage refund proceeding. Purchasers of Aptos motor gasoline will have an opportunity to submit refund applications in the first stage. Refunds will be granted to applicants who satisfactorily demonstrate they were injured by the pricing violations and who document the volume of refined petroleum products they purchased from Aptos during the relevant audit period. In the event that money remains after all first stage claims have been disposed of, the remaining funds will be disbursed in accordance with the provisions of 15 U.S.C. § 4501, the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA).

Applications for Refund must be postmarked on or before June 1, 1995. Instructions for the completion of refund applications have been set forth in Section III of the Decision immediately following this notice. Refund applications should be mailed to the address listed at the beginning of this notice.

Unless labelled as "confidential", all submissions must be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Date: September 26, 1994.

George B. Breznay,

Director.

Names of Firms: Aptos Shell, *et al.*
Date of Filing: July 20, 1993.
Case Numbers: LEF-0092, *et al.*

On July 20, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR 205.280. We have considered ERA's request to formulate refund procedures for the disbursement of monies remitted by Aptos Shell

(Aptos) and 4 other firms pursuant to a Remedial Order (hereafter, the Order) issued by OHA on December 14, 1981, and have determined that such procedures are appropriate. Each firm's name, case number and amount of money remitted to remedy its pricing violations has been set out in the Appendix immediately following this Decision.

Under the terms of the Order, a total of $21,764.57 has been remitted to DOE to remedy pricing violations which occurred during the relevant audit periods. These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. *See* Memorandum from George B. Breznay, Director OHA, to James T. Campbell, Comptroller, "Transferring Funds to Escrow Account," August 30, 1993. This Decision sets forth OHA's plan to distribute those funds. The specific application requirements appear in Section III of this Decision.

I. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR Part 205, Subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

II. Background

The facts alleged in the Order were undisputed. Each Remedial Order firm was a "retailer" of motor gasoline as that term has been defined at 10 CFR 212.31 and was therefore subject to the provisions of 10 CFR Part 210 and 10 CFR Part 212, Subpart F. The Order states that during the relevant audit period, they each charged prices higher than those permitted by 10 CFR 212.93(a)(2); levied a cents-per-gallon fee for services associated with the sale of motor gasoline in violation of 10 CFR 210.62(d)(1) and refused to make their records available for inspection in violation of 10 CFR 210.92(b).

The firms were ordered to reduce their prices for motor gasoline by specified amounts until a sufficient volume of gasoline had been sold at the reduced prices to remedy the violations.[1] After decontrol, DOE moved to require direct monetary restitution to the Treasury instead. *See Sunset Boulevard Car Wash*, 20 FERC ¶ 62,319 at 63,537 (1982). Under the terms of DOE's motion, the firms were required to disgorge and remit to the Treasury any violation amounts and the profits they had acquired as a result of their violations of the aforementioned provisions of the pricing regulations. The firms objected to DOE's motion which has since been affirmed by the Federal Energy Regulatory Commission (FERC) in a Decision issued on August 13, 1982. *Id.* FERC issued a final Order adopting its Proposed Order on September 29, 1982.

On April 28, 1994, we issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the funds that each firm remitted to DOE pursuant to the modified Order. We proposed implementing a two stage refund proceeding and we stated that applicants who purchased gasoline from any one of the retailers identified in the Appendix to the PDO would be provided an opportunity to submit refund applications in the first stage. In the event funds remained after all first stage claims had been considered, we stated that the remaining funds would be disbursed in the second stage in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (15 U.S.C. § 4501) (PODRA).

We provided a 30 day period for the submission of comments concerning the proposed procedures. However, we have received no comments since the PDO was published in the **Federal Register** more than 30 days ago. The proposed procedures will therefore be adopted in the same form in which they were originally outlined. Immediately set forth below are the specific considerations that will guide our evaluation of refund applications during the first stage.

III. The First Stage Refund Procedures

Refund applications submitted in the Aptos special refund proceeding will be evaluated in exactly the same manner as applications submitted in other refined product proceedings. In those proceedings, we have frequently chosen to adopt a number of rebuttable presumptions relating to pricing violations and injury. Such a policy reflects our belief that adoption of certain presumptions (i) permits applicants to participate in refund proceedings in larger numbers by avoiding the need to incur inordinate expense; and (ii) facilitates our consideration of first stage refund applications. 10 C.F.R. 205.282(e). For those reasons, we have adopted similar presumptions in the present proceeding.

(1) Calculating the Refund

We have presumed that the pricing violations were dispersed equally throughout each firm's gasoline sales during the relevant audit period. We therefore proposed that each applicant's potential refund should be calculated on a volumetric basis. Under the volumetric approach, refunds are calculated by multiplying the gallons of refined product each applicant purchased by the per gallon refund amount (volumetric). Applicants believing they were disproportionately overcharged by the pricing violations may present documentation which supports that claim. Those who succeed in showing they were disproportionately overcharged will be eligible to receive refunds calculated at a higher volumetric.

We have established a separate volumetric for each of the firms whose name appears in the Appendix accompanying this Decision. The precise volumetric for each firm can be found in the Appendix. Each volumetric was obtained by dividing the remedial order funds available for distribution by the volume of gasoline each firm is believed to have sold during the audit period. [2]

(2) Eligibility for a Refund

In order to be eligible to receive a refund in this proceeding, each applicant must (1) document the volume of motor gasoline it purchased during the consent order period; and (2) demonstrate that it was injured by the overcharges. The threshold requirement for any applicant is documenting the volume of product it purchased. This requirement is typically satisfied when the applicant successfully demonstrates ownership of the business for which the refund is sought and submits documentation which supports the

[1] The Order imposed no sanctions upon the firms for failing to provide records pursuant to 10 CFR 210.92(b). *See* Remedial Order at 1 and 7.

[2] In the absence of precise figures indicating the amount of motor gasoline sold by each firm during the audit period, we have estimated their sales using the best available data. Our estimate is that each gasoline retailer sold 50,000 gallons of motor gasoline per month for each month of the audit period. This figure will be used to calculate each retailer's volumetric unless the refund applications submitted pursuant to this Decision and Order indicate that our estimate is inaccurate. In the event the estimate proves to be inaccurate, it may be necessary to reestimate the volumetric.

volume claimed in its refund application.

The injury showing, however, is a potentially more difficult requirement for applicants to satisfy, especially those seeking smaller refund amounts. This is true because an applicant must demonstrate that it was forced to absorb the overcharges. Our cases have often stated that an applicant accomplishes this by demonstrating that it maintained a "bank" of unrecovered product costs and showing that market conditions would not permit them to pass through those increased costs. *See, Quintana Energy Corp.*, 21 DOE ¶ 85,032 at 88,117 (1991).

We recognized that the cost to the applicant of gathering evidence of injury to support a relatively small refund claim could exceed the expected refund and thereby cause some injured parties to forego an opportunity to obtain a refund. In view of these difficulties, we proposed adopting a number of injury presumptions which simplify and streamline the refund process. The simplified procedures reduce the burden that would have been placed on this office had we required detailed injury showings for relatively small refund applications.

(3) Presumptions of Injury

Set forth below are the presumptions of injury that have been adopted for each class of applicant likely to submit refund applications in this proceeding. These presumptions are not unlike injury presumptions adopted by OHA in many other refined product proceedings. Each presumption turns on the category of applicant.

Small-claim Presumption. We have adopted a small claim presumption of injury for resellers, retailers and refiners whose claim is $10,000 or less, exclusive of interest. A small claim threshold of $10,000 has been adopted, even though we established a lower threshold amount of $5,000 in many prior proceedings. *See, e.g., Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) (establishing a $5,000 threshold). The $10,000 threshold is more appropriate here because the volumetric established for each one of the 15 retailers covered by this proceeding is higher than the volumetric set in Gulf and in most other Subpart V refund proceedings. *Id.* If we were to adopt a lower threshold amount for this proceeding, then the number of very small firms that would be burdened with the requirement to make a detailed injury showing would increase substantially

The small claim presumption of injury for this proceeding, exempts applicants whose claims are $10,000 or less, exclusive of interest, from the requirement to prove injury. Such an applicant need only document the volume of motor gasoline he or she purchased during the audit period from one or more of the retailers named in the Appendix to be eligible to receive a full refund. *See Enron Corporation*, 21 DOE ¶ 85,323 at 88,957 (1991).

Mid-range Presumption. Mid-range applicants; that is, applicants seeking refunds in excess of $10,000 but less than $50,000, excluding interest, are eligible to receive 40 percent of their allocable share without proving injury. Like small-claim applicants, these applicants will only be required to document the volume of gasoline they purchased during the audit period from any one of the firms named in the Appendix to be eligible to receive a refund. *See Shell*, 17 DOE at 88,406.

End-user Presumption. We have presumed that end-users of petroleum products whose businesses were unrelated to the petroleum industry and were not subject to the regulations promulgated under the Emergency Petroleum Price and Allocation Act of 1973 (EPAA), 15 U.S.C. §§ 751–760h, were injured by each of the firm's pricing violations. Unlike regulated firms, end-users were not subject to price controls during the audit period. Moreover, these firms were not required to keep records that justified selling price increases by reference to cost increases. An analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services is beyond the scope of a special refund proceeding. *See American Pacific International, Inc.*, 14 DOE ¶ 85,158 at 88,294 (1986). End-users seeking refunds in this proceeding will therefore be presumed to have been injured. In order to receive a refund, end-user applicants need only document the volume of gasoline they purchased during the relevant audit period from any of the 15 retailers whose name appears in the Appendix following this Decision. Meritorious applicants are eligible to receive their full allocable share. *See Shell*, 17 DOE at 88,406.

Refunds in Excess of $50,000 and Other Applicants. Applicants seeking refunds in excess of $50,000, excluding interest, will be required to submit detailed evidence of injury. These applicants must show that the overcharges were absorbed, not passed through to their customers. They will therefore be unable to rely upon injury presumptions utilized in many refined product refund cases. *Id.*

We do not anticipate that other categories of applicants, such as, regulated firms, cooperatives, indirect purchasers or spot purchasers, would have obtained products from the firms covered by these procedures. Such applicants may nonetheless submit refund applications if they purchased motor gasoline from any of these firms during the relevant audit periods.

Any such applicants must demonstrate that they purchased products from one these firms during its audit period and show they were injured as a result of their purchases to be eligible to receive a refund in this proceeding. Regulated firms and cooperatives are exempt from the requirement to show injury. They must, however, show that they will pass any refund received through to their customers.

(4) How to Apply for a Refund

To apply for a refund from one or more of the firms' settlement fund, an applicant should submit an Application for Refund containing all of the following information:

(1) The Applicant's name; the current name and address of the business for which the refund is sought; the name and address during the refund period of the business for which the refund is sought; the taxpayer identification number; a statement specifying whether the applicant is an individual, corporation, partnership, sole proprietorship or other business entity; the name, title, and telephone number of a person to contact for additional information; and the name and address of the person who should receive any refund check.[3] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify those names.

(2) The applicant should specify the source of its gallonage information. In calculating its purchase volumes, an applicant should use actual records from the settlement period, if available. If these records are not available, the applicant may submit estimates of its gasoline purchases, but the estimation methodology must be reasonable and must be explained.

[3] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant who does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications. It is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 C.F.R. Part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

(3) A statement indicating whether the applicant or a related firm has filed, or has been authorized to file on its behalf, any other application in this refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(4) If the applicant is or was in any way affiliated with the Remedial Order firm, in this case any firm named in the Appendix, the applicant should explain this affiliation, including the time period in which it was affiliated. If not, a statement that the applicant was not affiliated with the Remedial Order firm.

(5) The statement listed below, provided it has been signed by the applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and should clearly refer to the appropriate proceeding name (Aptos Shell) and case number (LEF–0092) as well as specify the name of the firm it purchased gasoline from during the audit period. Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish this information to be publicly disclosed, the applicant must submit an original application, clearly designated "confidential", containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked no later than June 1, 1995, and sent to: Aptos Shell LEF–0092, et al, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(5) Minimal Amount Requirement

Only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See Mobil Oil Corporation*, 13 DOE ¶ 85,339 (1985). Using the volumetric methodology, an applicant must have purchased at least 173 gallons of motor gasoline from one or more of the firms named in the Appendix accompanying this Decision in order for its claim to be considered in this proceeding.

(6) Additional Information

OHA reserves the authority to require additional information before granting any refund in these proceedings. Applications lacking the required information may be dismissed or denied.

(7) Refund Applications filed by Representatives

OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service should contain all of the information indicated in this final Decision and Order. Strict compliance with the filing requirement as specified in 10 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant, will be required.

(8) Filing Deadline

The deadline for filing an Application for Refund is June 1, 1995.

IV. Second Stage Refund Procedures

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to OHA, and any funds that OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It is therefore ordered That: Applications for Refund from the funds remitted to the Department of Energy by any one of the firms named in the Appendix to this Decision, pursuant to the Remedial Order finalized on October 22, 1980, may now be filed.

Dated: September 26, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

[September 26, 1994]

Case No.	Case name	Amount	Audit period	$ Volumetric
LEF–0092	Aptos Shell, 18 Rancho Del Mar, Aptos, CA 95003.	$4,588.44	8/1/79–11/13/79	$.0267
LEF–0109	C.J. King Chevron, 403 S. Saratoga Ave., San Jose, CA 95129.	4,786.36	12/15/79–11/06/80	.0089
LEF–0110	Hughes Burlingame, Shell, 1490 Burlingame Ave., Burlingame, CA 94010.	7,284.06	8/1/79–11/13/79	.0424
LEF–0111	Sandusky's Service, 1201 Terrence Street, Vallejo, CA 94590.	2,855.71	1/79–01/31/80	.0096
LEF–0112	Skycrest Shell, 1600 King Drive, Daly City, CA 94015.	2,250.00	8/1/79–11/13/79	.0131
Total		21,764.57		

[FR Doc. 94–24587 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $83,847.58, plus accrued interest, in refined petroleum overcharges obtained by the DOE under the terms of a Remedial Order issued to

Alameda Chevron, *et al.* (Alameda) Case Nos. LEF–0093, *et al.* The OHA has determined that the funds will be distributed in accordance with the provisions of 10 CFR Part 205, Subpart V and 15 U.S.C. § 4501, the Petroleum Overcharge Distribution and Restitution Act (PODRA).

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–2400.

DATES AND ADDRESSES: Applications for Refund must be filed in duplicate, addressed to Alameda Chevron Special Refund Proceeding and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All applications must reference Case Number LEF–0093 and be postmarked on or before June 1, 1995.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute to eligible claimants $83,847.58, plus accrued interest, obtained by the DOE under the terms of a Remedial Order that the DOE issued to Alameda Chevron, *et al.* (Alameda) on October 22, 1980. Under the Remedial Order, Alameda and the 15 gasoline retailers whose names appear in the Appendix immediately following this Decision were found to have violated the Federal petroleum price and allocation regulations involving the sale of refined petroleum products between August 1, 1979 and January 27, 1980 (the Audit periods).

The OHA will distribute the Remedial Order funds in a two stage refund proceeding. Purchasers of Alameda motor gasoline or gasoline from one or more of the retailers named in the Appendix will have an opportunity to submit refund applications in the first stage. Refunds will be granted to applicants who satisfactorily demonstrate they were injured by the pricing violations and who document the volume of gasoline they purchased from one of the retailers named in the Appendix during the audit period. In the event that money remains after all first stage claims have been disposed of, the remaining funds will be disbursed in accordance with the provisions of 15 U.S.C. § 4501, the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA).

Applications for Refund must be postmarked on or before June 1, 1995. Instructions for the completion of refund applications have been set forth in Section III of the Decision immediately following this notice. Refund applications should be mailed to the address listed at the beginning of this notice.

Unless labelled as "confidential", all submissions must be made available for public inspection between the hours of 1 p.m. and 5 pm., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: September 26, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Names of Firms: Alameda Chevron, *et al.*

Date of Filing: July 20, 1993

Case Numbers: LEF–0093, *et al.*

On July 20, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 C.F.R. § 205.280. We have considered ERA's request to formulate refund procedures for the disbursement of monies remitted by Alameda Chevron and 15 other firms pursuant to a Remedial Order (hereafter, the Order) issued by OHA on October 22, 1980, to those firms and have determined that such procedures are appropriate. Each firm's name, case number and amount of money remitted to remedy its pricing violations has been set out in the Appendix immediately following this Decision.

Under the terms of the Order, a total of $83,847.58 has been remitted to DOE to remedy pricing violations which occurred during the relevant audit periods. These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. See Memorandum from George B. Breznay, Director OHA, to James T. Campbell, Comptroller, "Transferring Funds to Escrow Account," August 30, 1993. This Decision sets forth OHA's plan to distribute those funds. The specific application requirements appear in Section III of this Decision.

I. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR Part 205, Subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

II. Background

The facts alleged in the Order were undisputed. Each Remedial Order firm was a "retailer" of motor gasoline as that term has been defined at 10 CFR 212.31 and was therefore subject to the provisions of 10 CFR Part 210 and 10 CFR Part 212, Subpart F. The Order states that during the relevant audit period, they each charged prices higher than those permitted by 10 CFR 212.93(a)(2); levied a cents-per-gallon fee for services associated with the sale of motor gasoline in violation of 10 CFR 210.62(d)(1) and refused to make their records available for inspection in violation of 10 CFR 210.92(b).

The firms were ordered to reduce their prices for motor gasoline by specified amounts until a sufficient volume of gasoline had been sold at the reduced prices to remedy the violations.[1] After decontrol, DOE moved to require direct monetary restitution to the Treasury instead. *See Sunset Boulevard Car Wash*, 20 FERC ¶§ 62,319 at 63,537 (1982). Under the terms of DOE's motion, the firms were required to disgorge and remit to the Treasury any violation amounts and the profits they had acquired as a result of their violations of the aforementioned provisions of the pricing regulations. The firms objected to DOE's motion which has since been affirmed by the Federal Energy Regulatory Commission (FERC) in a Decision issued on August 13, 1982. *Id.*

On February 3, 1994, we issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the funds that each firm remitted to DOE pursuant to the modified Order. We proposed

[1] The Order imposed no sanctions upon the firms for failing to provide records pursuant to 10 CFR 210.92(b). *See* Remedial Order at 1 and 7.

implementing a two stage refund proceeding and we stated that applicants who purchased gasoline from any one of the retailers identified in the Appendix to the PDO would be provided an opportunity to submit refund applications in the first stage. In the event funds remained after all first stage claims had been considered, we stated that the remaining funds would be disbursed in the second stage in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (15 U.S.C. § 4501) (PODRA).

We provided a 30 day period for the submission of comments concerning the proposed procedures. However, we have received no comments since the PDO was published in the Federal Register more than 30 days ago. The proposed procedures will therefore be adopted in the same form in which they were originally outlined. Immediately set forth below are the specific considerations that will guide our evaluation of refund applications during the first stage.

III. The First Stage Refund Procedures

Refund applications submitted in the Alameda special refund proceeding will be evaluated in exactly the same manner as applications submitted in other refined product proceedings. In those proceedings, we have frequently chosen to adopt a number of rebuttable presumptions relating to pricing violations and injury. Such a policy reflects our belief that adoption of certain presumptions (i) permits applicants to participate in refund proceedings in larger numbers by avoiding the need to incur inordinate expense; and (ii) facilitates our consideration of first stage refund applications. 10 C.F.R. § 205.282(e). For those reasons, we have adopted similar presumptions in the present proceeding

(1) Calculating the Refund

We have presumed that the pricing violations were dispersed equally throughout each firm's gasoline sales during the relevant audit period. We therefore proposed that each applicant's potential refund should be calculated on a volumetric basis. Under the volumetric approach, refunds are calculated by multiplying the gallons of refined product each applicant purchased by the per gallon refund amount (volumetric). Applicants believing they were disproportionately overcharged by the pricing violations may present documentation which supports that claim. Those who succeed in showing they were disproportionately overcharged will be eligible to receive refunds calculated at a higher volumetric.

We have established a separate volumetric for each of the firms whose name appears in the Appendix accompanying this Decision. The precise volumetric for each firm can be found in the Appendix. Each volumetric was obtained by dividing the remedial order funds available for distribution by the volume of gasoline each firm is believed to have sold during the audit period.[2]

(2) Eligibility for a Refund

In order to be eligible to receive a refund in this proceeding, each applicant must (1) Document the volume of motor gasoline it purchased during the consent order period; and (2) demonstrate that it was injured by the overcharges. The threshold requirement for any applicant is documenting the volume of product it purchased. This requirement is typically satisfied when the applicant successfully demonstrates ownership of the business for which the refund is sought and submits documentation which supports the volume claimed in its refund application.

The injury showing, however, is a potentially more difficult requirement for applicants to satisfy, especially those seeking smaller refund amounts. This is true because an applicant must demonstrate that it was forced to absorb the overcharges. Our cases have often stated that an applicant accomplishes this by demonstrating that it maintained a "bank" of unrecovered product costs and showing that market conditions would not permit them to pass through those increased costs. *See, Quintana Energy Corp.*, 21 DOE ¶ 85,032 at 88,117 (1991).

We recognized that the cost to the applicant of gathering evidence of injury to support a relatively small refund claim could exceed the expected refund and thereby cause some injured parties to forego an opportunity to obtain a refund. In view of these difficulties, we proposed adopting a number of injury presumptions which simplify and streamline the refund process. The simplified procedures reduce the burden that would have been placed on this office had we required detailed injury showings for relatively small refund applications.

(3) Presumptions of Injury

Set forth below are the presumptions of injury that have been adopted for each class of applicant likely to submit refund applications in this proceeding. These presumptions are not unlike injury presumptions adopted by OHA in many other refined product proceedings. Each presumption turns on the category of applicant.

Small-claim Presumption. We have adopted a small claim presumption of injury for resellers, retailers and refiners whose claim is $10,000 or less, exclusive of interest. A small claim threshold of $10,000 has been adopted, even though we established a lower threshold amount of $5,000 in many prior proceedings. *See*, e.g., *Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) (establishing a $5,000 threshold). The $10,000 threshold is more appropriate here because the volumetric established for each one of the 15 retailers covered by this proceeding is significantly higher than the volumetric set in Gulf and in most other subpart V refund proceedings. *Id.* If we were to adopt a lower threshold amount for this proceeding, then the number of very small firms that would be burdened with the requirement to make a detailed injury showing would increase substantially.

The small claim presumption of injury for this proceeding, exempts applicants whose claims are $10,000 or less, exclusive of interest, from the requirement to prove injury. Such an applicant need only document the volume of motor gasoline he or she purchased during the audit period from one or more of the retailers named in the Appendix to be eligible to receive a full refund. *See Enron Corporation*, 21 DOE ¶ 85,323 at 88,957 (1991).

Mid-range Presumption. Mid-range applicants; that is, applicants seeking refunds in excess of $10,000 but less than $50,000, excluding interest, are eligible to receive 40 percent of their allocable share without proving injury. Like small-claim applicants, these applicants will only be required to document the volume of gasoline they purchased during the audit period from any one of the firms named in the Appendix to be eligible to receive a refund. *See Shell*, 17 DOE at 88,406.

End-user Presumption. We have presumed that end-users of petroleum products whose businesses were unrelated to the petroleum industry and were not subject to the regulations promulgated under the Emergency

[2] In the absence of precise figures indicating the amount of motor gasoline sold by each firm during the audit period, we have estimated their sales using the best available data. Our estimate is that each gasoline retailer sold 50,000 gallons of motor gasoline per month for each month of the audit period. This figure will be used to calculate each retailer's volumetric unless the refund applications submitted pursuant to this Decision and Order indicate that our estimate is inaccurate. In the event the estimate proves to be inaccurate, it may be necessary to reestimate the volumetric.

Petroleum Price and Allocation Act of 1973 (EPAA), 15 U.S.C. §§ 751–760h, were injured by each of the firm's pricing violations. Unlike regulated firms, end-users were not subject to price controls during the audit period. Moreover, these firms were not required to keep records that justified selling price increases by reference to cost increases. An analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services is beyond the scope of a special refund proceeding. *See American Pacific International, Inc.*, 14 DOE ¶ 85,158 at 88,294 (1986). End-users seeking refunds in this proceeding will therefore be presumed to have been injured. In order to receive a refund, end-user applicants need only document the volume of gasoline they purchased during the relevant audit period from any of the 15 retailers whose name appears in the Appendix following this Decision. Meritorious applicants are eligible to receive their full allocable share. *See Shell*, 17 DOE at 88,406.

Refunds in Excess of $50,000 and Other Applicants. Applicants seeking refunds in excess of $50,000, excluding interest, will be required to submit detailed evidence of injury. These applicants must show that the overcharges were absorbed, not passed through to their customers. They will therefore be unable to rely upon injury presumptions utilized in many refined product refund cases. *Id.*

We do not anticipate that other categories of applicants, such as, regulated firms, cooperatives, indirect purchasers or spot purchasers, would have obtained products from the firms covered by these procedures. Such applicants may nonetheless submit refund applications if they purchased motor gasoline from any of these firms during the relevant audit periods. Any such applicants must demonstrate that they purchased products from one of these firms during its audit period and show they were injured as a result of their purchases to be eligible to receive a refund in this proceeding. Regulated firms and cooperatives are exempt from the requirement to show injury. They must, however, show that they will pass any refund received through to their customers.

(4) How to Apply for a Refund

To apply for a refund from one or more of the firms' settlement fund, an applicant should submit an Application for Refund containing all of the following information:

(1) The Applicant's name; the current name and address of the business for which the refund is sought; the name and address during the refund period of the business for which the refund is sought; the taxpayer identification number; a statement specifying whether the applicant is an individual, corporation, partnership, sole proprietorship or other business entity; the name, title, and telephone number of a person to contact for additional information; and the name and address of the person who should receive any refund check.[3] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify those names.

(2) The applicant should specify the source of its gallonage information. In calculating its purchase volumes, an applicant should use actual records from the settlement period, if available. If these records are not available, the applicant may submit estimates of its gasoline purchases, but the estimation methodology must be reasonable and must be explained.

(3) A statement indicating whether the applicant or a related firm has filed, or has been authorized to file on its behalf, any other application in this refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(4) If the applicant is or was in any way affiliated with the Remedial Order firm, in this case any firm named in the Appendix, the applicant should explain this affiliation, including the time period in which it was affiliated. If not, a statement that the applicant was not affiliated with the Remedial Order firm.

(5) The statement listed below, provided it has been signed by the applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and should clearly refer to the appropriate proceeding name (Alameda Chevron) and case number (LEF–0093) as well as specify the name of the firm it purchased gasoline from during the audit period. Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish this information to be publicly disclosed, the applicant must submit an original application, clearly designated "confidential", containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked no later than June 1, 1995, and sent to: Alameda Chevron LEF–0093, et al., Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(5) Minimal Amount Requirement

Only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See Mobil Oil Corporation*, 13 DOE ¶ 85,339 (1985). Using the volumetric methodology, an applicant must have purchased at least 173 gallons of motor gasoline from one or more of the firms named in the Appendix accompanying this Decision in order for its claim to be considered in this proceeding.

(6) Additional Information

OHA reserves the authority to require additional information before granting any refund in these proceedings. Applications lacking the required information may be dismissed or denied.

(7) Refund Applications filed by Representatives

OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service should contain all of the information indicated in this final Decision and Order. Strict compliance with the filing requirement as specified in 10 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant, will be required.

(8) Filing Deadline

The deadline for filing an Application for Refund is June 1, 1995.

[3] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant who does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications. It is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR part 205, subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference room of the Office of Hearings and Appeals.

IV. Second Stage Refund Procedures

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. §§ 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to OHA, and any funds that OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It is therefore ordered, That:

Applications for Refund from the funds remitted to the Department of Energy by any one of the firms named in the Appendix to this Decision, pursuant to the Remedial Order finalized on October 22, 1980, may now be filed.

Dated: September 26, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

[September 26, 1994]

Case number	Case name	Dollar amount	Audit period	Volumetric
LEF–0093	Alameda Chevron	2,270.92	8/1/79–10/30/79	.0151
LEF–0094	Ben's Exxon Service	3,056.42	8/1/79–01/30/80	.0102
LEF–0095	Berryessa Chevron	2,933.32	8/1/79–10/30/79	.0196
LEF–0096	Bill Wren's Shell	4,366.42	8/1/79–01/11/80	.0163
LEF–0097	Cutting Shell Service	4,815.87	8/1/79–01/30/80	.0161
LEF–0098	Ed Gularte Chevron	6,235.74	8/1/79–01/30/80	.0208
LEF–0099	Joe Berube Services	8,294.00	8/1/79–12/13/79	.0375
LEF–0100	Mcdowell Exxon	6,998.37	8/1/79–10/20/79	.0529
LEF–0101	Petaluma Standard Service	3,987.27	8/1/79–01/30/80	.0133
LEF–0102	Regalia's Chevron Service	8,887.87	8/1/79–01/11/80	.0332
LEF–0103	Starr Union Service	6,773.51	8/1/79–11/20/79	.0372
LEF–0104	Tenth Street Chevron	7,097.98	8/1/79–01/30/80	.0237
LEF–0105	Tom's Coffee Tree Chevron	4,500.00	8/1/79–11/20/79	.0247
LEF–0106	Wallace Arco Service	2,067.09	8/1/79–01/11/80	.0069
LEF–0107	Walt's Shell Service	3,562.80	8/1/79–11/14/79	.0206
LEF–0108	Weber's Chevron Service	8,000.00	8/1/79–11/14/79	.0464
		$83,847.5		

[FR Doc. 94–24580 Filed 10–4–94; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5085–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0801.10; Requirememts for Generators, Transporters, and Disposers under RCRA Hazardous Waste Manifest System: was approved 08/17/94; OMB No. 2050–0039; expires 09/30/96. EPA ICR No. 0278.05; Notice of Supplemental Distribution of a Registered Pesticide Product; was approved 08/18/94; OMB No. 2070–0044; expires 08/31/97.

EPA ICR No. 1495.03; FIFRA Reregistration Fees; was approved 08/18/94; OMB No. 2070–0101; expires 08/31/97.

EPA ICR No. 0277.09; Training Verification Progrm under Paragraph 3 of the FIFRA for Implementation of the Revised Federal Worker Protection Standard; was approved 08/18/94; OMB No. 2070–0060; expires 02/28/95.

EPA ICR No. 1664.02; National Oil and Hazardous Substances Pollution Contingency Plan—Subpart J; was approved 08/15/94; OMB No. 2050–0141; expires 08/31/97.

EPA ICR No. 1708.01; 1995 Drinking Water Needs Survey; was approved 09/07/94; OMB No. 2040–0176; expires 09/30/97.

EPA ICR No. 1176.04; New Residential Wood Heaters, Reporting and Recordkeeping Requirements—Subpar AAA; was approved 08/31/94; expires 08/31/97.

EPA ICR No. 0783.20; Application for Motor Vehicle Emission Certification and Fuel Economy Labeling; was approved 07/27/94; OMB No. 2060–0104; expires 06/30/95. This ICR supports an amendment.

EPA ICR No. 1633.05; Revision of Part 72 of the Acid Rain Program under Title IV of the Clean Air Act Amendments of 1990; was approved 09/02/94; OMB No. 2060–0258; expires 01/31/96.

EPA ICR No. 0276.07; Notification for Small-Scale Testing of Genetically Modified Microbial Pesticides for Experimental Purposes Only; was approved 09/07/94; OMB No. 2070–0040; expires 11/30/96.

EPA ICR No. 1591.04; Standard for Reformulated Gasoline: Foreign Refinery Baseline; was approved 08/29/94; OMB No. 2060–0277; expires 03/31/97.

OMB Disapprovals

EPA ICR No. 1687.01; National Emission Standards for Hazardous Air Pollutant for the Aerospace Manufacturing and Rework Industry; was disapproved 08/26/94.

EPA ICR No. 1704.01; Tri-Annual Certification: Alternate Threshold for Low-Level Releases and Transfers; was disapproved 08/17/94.

EPA ICR No. 1699.01; The Management of Mercury-Containing Lamps; was disapproved 08/17/94.

Dated: September 30, 1994.

Jane Stewart,

Acting Director, Regulatory Management Division.

[FR Doc. 94–24646 Filed 10–4–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5081–8]

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 information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 4, 1994.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Exports from and Imports to the United States Under the OECD Decision (ICR No. 1647.01). This ICR requests approval for a new collection.

Abstract: This ICR is required to ensure implementation of the Organization For Economic Co-operation and Development's (OECD) Council Decision C(92)39/FINAL on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (OECD Decision), adopted by the Council at its 778th Session on 30 March 1992. This decision is legally binding upon the U.S., a member of the OECD, and obligates U.S. exporters and importers of hazardous waste destined for recovery within the OECD to new notification and tracking requirements, which are detailed in the ICR.

To implement the OECD Decision in the U.S., the EPA must modify certain regulations under the Resource Conservation and Recovery Act (RCRA), and has developed a Final Rule to codify the requirements of the OECD Decision as it will be implemented in the U.S.

The OECD Decision does not significantly change the current hazardous waste export/import requirements under 40 CFR parts 262. For U.S. exporters, it will require the submittal of additional information as part of the Notification of Intent to Export; also, some additional information required to be included in the tracking document exceeds that presently required for the hazardous waste manifest. For U.S. importers, it requires the signing and transmitting of additional copies of the tracking document and requires an expeditinG of this process (3 working days instead of 30 days). No additional recordkeeping burden is imposed by the OECD Decision.

It is EPA's interpretation that the regulations under RCRA codifying the terms of the OECD Decision are applicable only to hazardous waste destined for recovery that is: (1) Subject to the RCRA manifest requirements under the Federal regulations when it is sent for recovery; and (2) sent to or received from a other OECD member country. Wastes not within the scope of the OECD Decision will remain subject to the current RCRA export and import requirements in 40 CFR part 262, subparts E and F.

EPA's Office of Enforcement and Compliance Assurance will use the information to determine compliance with applicable OECD regulatory provisions, and to provide data on hazardous waste imports and exports for tracking purposes and for reporting to the OECD.

Burden Statement: The respondent burden for this collection of information is estimated to average 4 hours per response. This estimate includes all aspects of the information collection including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: U.S. exporters and importers of hazardous waste destined for recovery.

Estimated Number of Respondents: 437 exporters, and 771 importers.

Estimated Number of Responses Per Respondent: Varies.

Estimated Total Annual Burden on Respondents: 4,814 hours.

Frequency of Collection: On-Occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, 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

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: September 29, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–24645 Filed 10–4–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5086–2]

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 information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 4, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Request for Contractor Access to TSCA Confidential Business Information (EPA ICR No.: 1250.04; OMB No.: 2070–0075). This is an extension of the expiration date of a currently approved collection.

Abstract: In compliance with section 14 (a) (2) of the Toxic Substances Control Act (TSCA), EPA contractors may gain access to the Agency's Confidential Business Information (CBI). Contractors must establish on Form 7740–6A ("Federal TSCA CBI Access Request, Agreement, and Approval—Contractor/Subcontractor Employee") that they need access to CBI to perform their contract duties for EPA. The contractors are also required to store, file or maintain a copy of the form for possible future reference. The Agency uses the information to determine whether CBI may be granted.

Burden Statement: The burden for this collection of information is estimated to average 1 hour per response for reporting, and 6 hours per recordkeeper annually. This estimate includes the time needed to review

instructions, gather the data needed, complete the form and review the collection of information.

Respondents: EPA Contractors.

Estimated No. of Respondents: 30.

Estimated No. of Responses per Respondent: 20.

Estimated Total Annual Burden on Respondents: 600 hours.

Frequency of Collection: One time.

Send comments regarding the burden estimate, or any other aspect of the 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

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: September 30, 1994.

Jane Stewart,

Acting Director, Regulatory Management Division.

[FR Doc. 94–24644 Filed 10–4–94; 8:45 am]

BILLING CODE 6560–60–F

[FRL–5086–5]

Office of Environmental Justice; Small Grants Program; Solicitation Notice for Fiscal Year (FY) 1995 Environmental Justice Small Grants to Community-Based/Grassroots Organizations and Tribal Governments

Purpose of the Grants Program

The purpose of this grants program is to provide financial assistance and stimulate a public purpose by supporting projects to any affected community group, which is eligible under applicable statutory authorities, (for example, community-based/grassroots organization, church, school, education agency, college or university, or other non-profit organization) and Tribal government who are working or plan to carry out projects to address environmental justice issues. Funds can be used to develop a new activity or to substantially improve the quality of existing activities.

Funding

For FY 1995, the Office of Environmental Justice (OEJ) has budgeted $3,000,000 for the Environmental Justice (EJ) Small Grants Program. EPA's 10 regions will each have $300,000 to award grants under this program. A maximum of $20,000 can be awarded for each grant. EPA will award grants in FY 1995 subject to the amount of funds appropriated by Congress.

Translations Available

A Spanish translation of this announcement may be obtained by calling the Office of Environmental Justice at 1–800–962–6215.

Hay traducciones disponibles en espanol. Si usted esta interesado en obtener una traduccion de este anuncio en espanol, por favor llame a La Oficina de Justicia Ambiental conocida como "Office of Environmental Justice", linea de emergencia (1–800–962–6215).

Important Pre-Application Information

Pre-applications must be postmarked no later than Saturday, February 4, 1995. Pre-applications will serve as the sole basis for evaluation and recommendation for funding. EPA will award grants based on the merits of the pre-application.

Pre-applications must be mailed to your Environmental Protection Agency (EPA) Regional Office. A list of addresses and phone numbers for the regional contacts is included at the end of this notice. *Required pre-application forms, described below, may be obtained from the regional contacts.* EPA expects awards to be made by May 31, 1995.

Background

In its 1992 report, *Environmental Equity: Reducing Risk for All Communities*, EPA found that minority and low-income communities experience higher than average exposure to toxic pollutants than the general population. OEJ was established in 1992 to help these communities to identify and assess pollution sources, to implement environmental awareness and training programs for affected residents, and to work with community stakeholders to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit projects, select suitable projects from among those proposed, supervise such projects, evaluate the results of projects, and disseminate information on the effectiveness of the projects, and feasibility of the practices, methods, techniques, and processes in environmental justice areas.

Fiscal Year (FY) 1995 is the second year of the EJ Small Grants Program. Seventy-one (71) grants totaling $507,000 were awarded in FY 1994.

A. How Does EPA Define Environmental Justice Under the Environmental Justice Small Grants Program?

Environmental justice is the fair treatment of people of all races, cultures, and income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. Fair treatment means that no racial, ethnic or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from the operation of industrial, municipal, and commercial enterprises and from the execution of federal, state and local, and tribal programs and policies. Environmental justice seeks to ensure that the communities, private industry, local governments, states, tribes, federal government, grassroots organizations, and individuals act responsibly and ensure environmental protection to all communities.

Eligible Activities

B. What Type of Projects Are Eligible to Receive Funding?

To be selected for an award, the project must include one or more of the following four (4) objectives:

1. Identify the necessary improvements in communication and coordination among existing community-based/grassroots organizations, and local, state, tribal, and federal environmental programs, and all other stakeholders. Facilitate communication, information exchange, and partnerships among the stakeholders to address environmental injustices (for example, workshops, awareness conferences, establishment of community stakeholder committees, community newsletters, etc.);

2. Motivate the general public to be more conscious of their local environmental justice issues or problems and encourage the community to take action to address these issues (for example, reforestation efforts, monitoring of socioeconomic changes due to environmental abuse, stream monitoring, etc.);

3. Develop and demonstrate an environmental justice practice, method, or technique which has wide application and addresses an environmental justice issue which is of a high-priority.

4. Teach about risk reduction and pollution prevention, and seek technical experts to demonstrate how to access, analyze, and interpret public environmental data (for example, Geographic Information Systems (GIS), Toxic Release Inventories (TRI), and other databases.)

Priority will be given to community-based/grassroots organizations, tribes, and organizations whose projects will help improve the environmental quality of affected communities by (A) developing an environmental justice project, activity, method, or technique which has wide application, (B) enhances the community's skills in addressing environmental justice issues and problems, and (C) establishes or expands environmental and public health information systems for local communities.

Environmental Justice projects or activities should enhance critical thinking, problem solving, and the active participation of affected communities in decision-making processes. Environmental justice efforts may include, but are not necessarily limited to enhancing the gathering, observing, measuring, classifying, experimenting, and other data gathering techniques that assist individuals in discussing, inferring, predicting, and interpreting information about environmental justice issues and concerns. Environmental justice projects should engage and motivate individuals to weigh various issues to make informed and responsible decisions as they work to address environmental injustices.

The items discussed above are relative and can be defined differently among the applicants from various geographic regions. Each pre-application should define these items and terms as they relate to the specific project. Include a succinct explanation of how the project can serve as a model in other settings and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary and must be defined by applicants according to their local environmental justice concerns.

C. How Much Money May Be Requested, and Are Matching Funds Required?

The ceiling for any one grant is $20,000 in Federal funds. Depending on the funds appropriated by Congress, EPA's 10 regional offices will each have approximately $300,000 to issue awards. *Applicants are not required to cost share.*

D. Who May Submit Pre-Applications and May an Applicant Submit More Than One?

Any affected community group (for example, community-based/grassroots organization, church, school, education agency, college or university, or other non-profit organizations) and Tribal government may submit a pre-application upon publication of this solicitation. Applicants *must be incorporated and non-profit* to receive these Federal funds. *Individuals are not eligible to receive grants.* The qualifications of the project manager and other individuals participating in the proposed project will be an important factor in the selection process.

EPA will consider only one pre-application per applicant for a given project. Applicants may submit more than one pre-application as long as the pre-applications are for separate and distinct projects or activities.

Applicants who were previously awarded funds may submit an application for FY 1995. The FY 1995 pre-application may or may not have any relationship to the project funded in FY 1994. Every pre-application for FY 1995 will be evaluated based upon the merit of the proposed project in relation to the other FY 1995 pre-applications, regardless of whether the proposal would expand a project funded in a previous year.

E. Are There Any Restrictions on the Use of the Federal Funds?

Yes. Among other things, *EPA funds cannot be used* as matching funds for other Federal grants, for construction, legal/attorney fees, or buying furniture. Refer to 40 CFR 30.410 "How does EPA determine Allowable Costs?"

The Pre-Application

F. What is a Pre-Application?

The pre-application contains four parts: 1) the "Application for Federal Assistance" form (Standard Form 424/SF 424), 2) the "Budget Information: Non-Construction Programs" form (Standard Form 424A/SF 424A), 3) a work plan (described below), and 4) certifications/assurances forms. These documents contain all the information EPA needs to evaluate the merits of your pre-application. Finalists may be asked to submit additional information to support their projects.

G. How Must the Pre-Application Be Submitted and Specifically What Must the Standard Forms (SF) 424 and (SF) 424A, and the Work Plan Include?

The applicant must submit the original pre-application signed by a person duly authorized by the governing board of the applicant and one copy of the pre-application (double-sided encouraged). Pre-applications must be reproducible (for example, stapled once in the upper left hand corner, on white paper, and with page numbers).

As described above, a pre-application contains an SF 424, SF 424A, a work plan, and certifications/assurances. The following describes the contents and requirements of the SF 424, SF 424A, the work plan, and the certifications/assurances forms.

The percentages next to the items discussed below are the weights EPA will use to evaluate the applicant's pre-application. Please note that certain sections are given greater weight than others. The required forms described below can be obtained by calling or writing to the EPA contacts listed at the end of this notice.

1. Application for Federal Assistance (SF 424). An SF 424 is an official form required for all Federal grants which requests basic information about the applicant and the proposed grant project. A completed SF 424 must be submitted as part of your pre-application. (5%)

2. Budget Information: Non-Construction Programs (SF 424A). An SF 424A is an official form which requests the applicant to provide the basic information on how the Federal and non-Federal share (if any) of funds will be used. A completed SF 424A must be submitted as part of your pre-application. For the purposes of this grants program, *complete only the non-shaded areas.* (5%)

3. Work Plan. A work plan describes the applicant's proposed project. Work plans must be no more than 5 pages total. One page is one side of a single-spaced typed page. The pages must be letter size (8½×11), with normal type size (10 or 12 cpi) and at least 1" margins. The only appendices and letters of support that EPA will accept are a detailed budget, resumes of key personnel, and commitment letters. (85%-delineated below)

Work plans must be submitted in the format described below.

I. A concise introduction of no more than one page that states the nature of the organization, how the organization has been successful in the past, purpose of the project, objective, method, project completion plans, target audience, and expected results. (10%)

II. A clear and concise project description of no more than four pages which describes how the applicant plans to accomplish one or more of the four objectives outlined in Question B. (60%)

A. Identify necessary improvements in communication and coordination * * * Facilitate communication, information exchange * * *.

B. Motivate the general public to be more conscious of environmental justice issues * * *

C. Develop and demonstrate environmental justice practice, method, or technique * * *

D. Teach about risk reduction and pollution prevention * * *

III. A conclusion of no more than one page discussing how the applicant will evaluate the success of the project, in terms of the anticipated strengths and challenges in implementing the project. (10%)

IV. An appendix with no more than two pages of resumes of up to three key personnel. (5%)

V. An appendix with one page letters of commitment from other organizations with a significant role in the project. Letters of endorsement are not acceptable.

4. Certification/Assurances: The Federal government requires all grantees to certify and assure that they will comply with a variety of federal laws, regulations and requirements. There are two certifications/assurances forms which must be signed and included in the application. (5%)

H. When and Where Must Pre-Applications Be Submitted?

The original plus one copy of the pre-application must be mailed to EPA *postmarked no later than Saturday, February 4, 1995.* Pre-applications must be submitted to the EPA regional office for the region where the applicant is located. A list of the addresses of the EPA Regional Offices (with the names of the regional contacts) and a list of the states which these offices support are included at the end of this notice.

Review and Selection Process

I. How Will Pre-Applications Be Reviewed?

EPA *Regional Offices will review, evaluate, and make selections.* Pre-applications will be screened to ensure they meet all eligible activities described in Questions A, B, C, D, E, F, G, and H. Applications will be disqualified if they do not meet EPA's basic criteria.

J. How Will the Final Selections Be Made?

After the individual projects are reviewed and ranked as described in Question I, EPA officials in the regions will compare the best pre-applications and make final selections. Factors EPA will take into account include geographic and socioeconomic balance, project diversity, cost, and projects whose benefits can be sustained after the grant is completed.

Regional Administrators will select the grants with concurrence from the Director of the Office of Environmental Justice at EPA Headquarters.

K. How Will Applicants Be Notified?

After all pre-applications are received, EPA will mail acknowledgements to each applicant. Once pre-applications have been recommended for funding, EPA will notify the finalists and request any additional information necessary to complete the award process. The EPA Regional Environmental Justice Coordinators will notify those applicants whose projects were not funded.

Grant Activities

L. When Should Proposed Activities Start?

Activities cannot start before funds are awarded. Start dates are currently targeted for June 1, 1995. EPA plans to award these projects by May 31, 1995.

M. How Much Time Do Grant Recipients Have to Complete Projects?

Funding may be requested for periods of up to 12 months. However, flexibility is possible depending upon the nature of the project. Activities must be completed within the time frame specified in the grant award. Requests for renewals will receive low priority.

N. Who Will Perform Projects and Activities?

The project manager, who is normally an employee of the recipient, is responsible by law for the technical success of the project. The project manager is subject to approval by the EPA project officer.

O. What Reports Must Grant Recipients Complete?

All recipients must submit final reports for EPA approval within ninety (90) days following the end of the project period. Specific report requirements (for example, Final Technical Report and Financial Status Report) will be detailed in the award agreement. EPA plans to collect, evaluate, and disseminate grantees' final reports to serve as model programs. Since networking is crucial to the success of the program, grantees may be required to submit an extra copy to a central collection point.

P. What is the Expected Time-Frame for the Review and Awarding of the Grants?

October 7, 1994—Request for Applications Notice (RFA) is published in the **Federal Register**.

October 8, 1994–February 3, 1995—Eligible grant recipients develop their pre-applications.

February 4, 1995—Pre-applications must be postmarked or received by EPA Regional Offices by this date.

February 5, 1995–March 31, 1995—EPA program officials review, evaluate, and select grants.

April 1, 1995–May 31, 1995—EPA Regional grants offices process grants and make awards. Applicants will be contacted by the grants office or program office if their pre-proposal was selected for funding. Additional information may be required from the finalists, as indicated under Question F above.

June 1, 1995—EPA anticipates the grantees' projects or activities to begin by or around this date, after grant agreements have been accepted by the recipient

Fiscal Year 1996

Q. How Can I Receive Information on the Fiscal Year 1996 Environmental Justice Grants Program?

After the Fiscal Year 1995 Solicitation, EPA will develop a new mailing list for the Fiscal Year 1996 Solicitation. If you wish to receive information on the 1996 Environmental Justice Small Grants Program, you must mail your request along with your name, organization, address and phone number to: U.S. Environmental Protection Agency, Office of Environmental Justice Grants-FY 1996 (3103), 401 M Street, SW., Washington, DC 20460.

For additional information, please contact the appropriate Regional EJ Coordinator listed at the end of this notice.

Working Definitions

• *Affected communities*—individuals or groups of individuals which are subject to an actual or potential health, economic, or environmental threat arising from, or which arose from, polluting source(s), or proposed polluting source(s). An example of affected parties include individuals who live near polluting sources and whose health is or may be endangered or whose economic interest are directly threatened or harmed.

• *Education agency*—any education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381) and shall include any tribal education agency.

• *Environmental justice*—refer to definition provided on page 3.

• *Geographic protection*—efforts to manage environmental problems that are specific to the characteristics of a geographic region.

• *Low-income community*—a population that is classified by the U.S.

Bureau of the Census as having an aggregated mean income level for a family of four that correlates to $13,359, adjusted through the poverty index using a standard of living percentage change where applicable, and whose composition is at least 25% of the total population of a defined area or jurisdiction.

• *Non-profit organization*—an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such Code.

• *People of color community*—a population that is classified by the U.S. Bureau of the Census as African American, Hispanic American, Asian and Pacific American, American Indian, Eskimo, Aleut and other non-white persons, whose composition is at least 25% of the total population of a defined area or jurisdiction.

• *Pollution prevention* —the reduction or elimination of pollutants through increased efficiency in the use of raw materials, energy water, or other resources; or the protection of natural resources by conservation. Pollution prevention measures may reduce the amount of pollutants released into the environment as well as the hazards to public health and the environment from such releases.

• *Risk reduction* —the process of estimating and comparing the dimensions and characteristics of risks, and determining the feasibility and costs of reducing them, to determine which future actions to take to achieve the greatest reduction of the most serious threats.

• *Tribe*—all federally recognized American Indian tribes (including "Alaskan Native Villages"), pueblos, and rancherios. Although, as used in this notice, the term tribe refers to only "federally recognized" indigenous peoples, "state recognized" indigenous peoples are able to apply for grants as "other eligible grass-roots organizations" as long as they are incorporated.

Jonathan Z. Cannon,

Assistant Administrator, Office of Administration and Resources Management.

Contact Names and Addresses

Region 1

Primary Contact: James Younger 617/565–3427, USEPA Region 1, John F. Kennedy Federal Building, One Congress Street, 10th Floor OCR, Boston, MA 02203.

Secondary Contact: Rhona Julien 617/565–9454.

Region 2

Primary Contact: Lillian Johnson 212/264–7054, USEPA Region 2 (2EPD), Javits Federal Building, 26 Federal Plaza, New York, NY 10278.

Secondary Contact: Natalie Loney 212/264–0002.

Region 3

Primary Contact: Mary Zielinski 315/597–6795, USEPA Region 3 (3PM–71), 841 Chestnut Building, 3DA00, Philadelphia, PA 19107–4431.

Secondary Contact: Dominique Luekenhoff 215/597–6529.

Region 4

Primary Contact: Vivian Malone Jones 404/347–4294 ext. 6764, USEPA Region 4, 345 Courtland Street, NE., Atlanta, GA 30365.

Secondary Contact: Hector Buitrago 404/347–2200.

Region 5

Primary Contact: Gina Rosario 312/353–4716, USEPA Region 5 (H–75), 77 West Jackson Boulevard, Chicago, IL 60604–3507.

Secondary Contact: Ethel Crisp 312/353–3810.

Region 6

Primary Contact: Mary Wilson 214/665–6529, USEPA Region 6 (6M–P), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Secondary Contact: Lynda Carroll 214/665–6500.

Region 7

Primary Contact: Hattie Thomas 913/551–7003, USEPA Region 7 1–800–223–0425, 726 Minnesota Avenue, Kansas City, KS 66101.

Secondary Contact: Rupert Thomas 913/551–7661.

Region 8

Primary Contact: Mel McCottry 303/294–1982, USEPA Region 8 (PM–AS), 999 18th Street, Suite 500, Denver, CO 80202–2405.

Secondary Contact: Tempa Graves 303/294–1982.

Region 9

Primary Contact: Lori Lewis 415/744–1561, USEPA Region 9 (E–1), 75 Hawthorne Street, San Francisco, CA 94105.

Secondary Contact: Martha Vega 415/744–1609.

Region 10

Primary Contact: Robyn Meeker 206/553–8579, USEPA Region 10 (MD–142), 1200 Sixth Avenue, Seattle, WA 98101.

Secondary Contact: Joyce Kelly 206/553–4029.

Headquarters

Primary Contact: Daniel Gogal 1–800–962–6215, USEPA, Office of Environmental Justice (3103), 401 M Street, SW., Washington, DC 20460.

States and Territories By Region

Region 1

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region 2

New Jersey, New York, Puerto Rico, Virgin Islands

Region 3

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region 4

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region 5

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region 6

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region 7

Iowa, Kansas, Missouri, Nebraska

Region 8

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Region 9

Arizona, California, Hawaii, Nevada, American Samoa, Guam

Region 10

Alaska, Idaho, Oregon, Washington

[FR Doc. 94–24647 Filed 10–4–94; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5085–7]

Information Resources Management Strategic Planning Task Force of the National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a one-day meeting of the Information Resources Management (IRM) Strategic Planning Task Force. The IRM Task Force is a special task

force formed under the Environmental Information and Assessment (EIA) Committee, which is one of the standing committees of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues, and the EIA Committee examines issues associated with the gathering, dissemination, and use of environmentally related data and information.

The IRM Task Force was formed to provide recommendations on key elements that EPA should include in an Information Resources Management Strategic Plan for the Agency. The meeting is being held to discuss issues associated with implementing the recommendations in the final report of the Task Force.

Scheduling constraints preclude oral comments from the public during the meeting. Written comments can be submitted by mail, and will be transmitted to Task Force members for consideration.

DATES: The public meeting will be held in Wednesday, October 26, 1994, from 10:00 a.m. to 4 p.m. in room 333 at the National Governors' Association Hall of the States, 444 North Capitol Street, Washington, DC.

ADDRESSES: Written comments should be sent to: Mark Joyce, Office of Cooperative Environmental Management, U.S. EPA 1601F, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Official, Direct line (202) 260–6889, Secretary's line (202) 260–6892.

Dated: September 28, 1994.

Mark Joyce,

Designated Federal Official.

[FR Doc. 94–24648 Filed 10–4–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 94-1052]

Comments Invited On New York Metropolitan Area Public Safety Plan Amendment

September 27, 1994.

On May 12, 1989, the Commission accepted the Public Safety Plan for the New York Metropolitan area (Region 8). On July 11, 1994, Region 8 submitted proposed amendments to its plan that would revise the current channel allotments. Because the proposed amendment is a major change to the Region 8 plan, the Commission is soliciting comments from the public before taking action. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 57.)

Interested parties may file comments to the proposed amendments on or before November 4, 1994 and reply comments on or before November 21, 1994. Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, D.C. 20554 and should clearly identify them as submissions to General Docket 88–476 New York Metropolitan Area Public Safety Region 8.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–24600 Filed 10–4–94; 8:45 am]

BILLING CODE 6712–01–F

[DA 94-1053]

Comments Invited On Southern California Public Safety Plan Amendment

September 27, 1994.

On November 8, 1989, the Commission accepted the Public Safety Plan for Southern California (Region 5). On August 1, 1994, Region 5 submitted a proposed amendment to its plan that would revise the current channel allotments. Because the proposed amendment is a major change to the Region 5 plan, the Commission is soliciting comments from the public before taking action. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 57.)

Interested parties may file comments to the proposed amendment on or before November 4, 1994 and reply comments on or before November 21, 1994. Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, D.C. 20554 and should clearly identify them as submissions to Gen. Docket 89–97 Southern California Public Safety Region 5.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–24599 Filed 10–4–94; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Crisis Counseling Assistance and Training

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: FEMA gives notice that the extension period for the Missouri regular crisis counseling program for disaster survivors of the 1993 floods is extended from 90 to 180 days. The severity of the emotional trauma resulting from the floods in Missouri warrants an extension of 180 days.

EFFECTIVE DATE: November 16, 1994.

FOR FURTHER INFORMATION CONTACT: Diana Paschke, Human Services Division, Office of Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4026.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is charged with coordinating Federal disaster assistance under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act) when the President has declared a major disaster FEMA provided funding for a regular crisis counseling program to help those suffering the trauma resulting from the 1993 floods in Missouri.

FEMA received a request from the State of Missouri to extend the otherwise applicable time limitations authorized by section 416 of the Act, so that the State can provide additional mental health services that are critically needed for citizens during the recovery operation. The extent of the damages wrought by the floods were of such magnitude that the residents of Missouri suffered significant emotional trauma that warrants continuation of disaster mental health counseling beyond the normal crisis counseling time periods.

The Director, Center for Mental Health Services (CMHS), as the delegate to FEMA for the Secretary, Department of Health and Human Services, helps FEMA implement crisis counseling training and assistance, FEMA believes there was a well-established need for continuation of the regular crisis counseling program beyond a 90-day extension. Based upon the sound CMHS

recommendation, FEMA has approved a 180-day extension to the time period for the Missouri regular crisis counseling program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: September 30, 1994.

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 94–24624 Filed 10–4–94; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Act Antitrust Improvements Act of 1976 and Regulations Thereunder; Notice Regarding an Increase in the Filing Fee

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: On August 26, 1994, the President signed legislation into law mandating that a fee of $45,000 must be paid by each person acquiring voting securities or assets who is required to file a premerger notification by the Hart-Scott-Rodino Antitrust Improvement Act of 1976 and the regulations promulgated thereunder. The newly enacted law amends Section 605 of Title VI of Pub. L. 101–162, which mandated the collection of a $25,000 filing fee.

The new provision increasing the filing fee to $45,000 became effective upon the President's signature, late Friday, August 26, 1994. The Commission is collecting the new fee for filings made on or after Monday, August 29. The Commission has issued this Notice in order to advise the public about the increase in the filing fee.

EFFECTIVE DATE: The increased filing fee is due from acquiring persons submitting Premerger Notification and Report Forms on or after August 29, 1994.

FOR FURTHER INFORMATION CONTACT: Richard B. Smith, Attorney, Premerger Notification Office, Bureau of Competition (Sixth Street and Pennsylvania Avenue, NW., Room 301), Federal Trade Commission, Washington, D.C. 20580, 202–326–3100.

SUPPLEMENTARY INFORMATION: The United States Congress, in an Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies,[1] has mandated that a fee of $45,000 must be paid by "persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the regulations promulgated thereunder.[2] The new fee provision was signed into law by President Clinton late Friday, August 26, 1994, and took effect immediately.[3] The increased fee must be paid for filings made on or after Monday, August 29, 1994.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–24610 Filed 10–4–94; 8:45 am]

BILLING CODE 6750–01–M

[1] The newly passed law (H.R. 4603, Pub. L. 103–317) amends Section 605 of Title VI of Public Law 101–162 (103 Stat. 1031), which originally mandated the collection of a filing fee beginning November 28, 1989, by striking "$25,000" and inserting in lieu thereof "$45,000."

[2] Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 95–435, 90 Stat. 1390.

[3] Many other provisions of the legislation, relating to current appropriations for FY 95, are effective October 1, 1994. Although the fee increase provision is contained in the FY 95 current appropriations legislation, the increase itself is not a current appropriation for FY 95, nor is it made dependent upon the FY 95 appropriation. Rather, the fee increase is permanent legislation amending a provision of law that has been in effect since 1989. The appropriations act contains no provision specifying an effective date for the fee increase provision, and it was therefore effective upon enactment. *See* GAO Office of the General Counsel, Principles of Federal Appropriations Law § 2.B.4 (2d ed. 1991).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register.**

The Secretary of the Treasury has certified a rate of 13⅜% for the quarter ended September 30, 1994. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: September 28, 1994.

George Strader,

Deputy Assistance Secretary, Finance.

[FR Doc. 94–24559 Filed 10–4–94; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration.

The Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96-511):

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Indirect Medical Education; *Form No.:* HCFA–R–64; *Use:* This collection of information on interns and residents is needed to calculate Medicare program payments for hospitals for the indirect costs they incur for medical education. *Frequency:* Annually; *Respondents:* Businesses or other for profit, nonprofit institutions; *Estimated Number of Responses:* 1,250; *Average Hours Per Response:* 3; *Total Estimated Burden Hours:* 3,750.

2. *Type of Request:* Revision; *Title of Information Collection:* Psychiatric Unit Criteria Worksheet, Rehabilitation Hospital Criteria Worksheet, and Rehabilitation Unit Criteria Worksheet; *Form Nos.:* HCFA–437, –437A, –437B; *Use:* These forms are necessary to verify and reverify that these facilities/units comply and remain in compliance with the exclusion criteria for the Medicare prospective payment system; *Frequency:* Annually; *Respondents:* Businesses or other for profit, nonprofit institutions, and State or local governments; *Estimated Number of Responses: 2,349; Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 587.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Supplier Number Application; *Form No.:* HCFA–192; *Use:* Legislation requires all suppliers to disclose the names of owners and managing employees. This form establishes a standard for that data collection. These data are used to identify common ownership and management and sanctioned individuals in the Medicare and Medicaid programs; *Frequency:* On occasion; *Respondents:* Businesses or other for profit, small businesses or

organizations; *Estimated Number of Responses:* 50,000; *Average Hours Per Response:* .75; *Total Estimated Burden Hours:* 37,500.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* Requests for Medicare Payment by Municipal Health Services Program (MHSP) Clinics; *Form No.:* HCFA–127; *Use:* This form allows for the 15 participating clinics to be reimbursed for services they provided to Medicare beneficiaries. The form permits cities participating in the MHSP to receive correct and timely reimbursement and expedites the routing and payment of bills; *Frequency:* Weekly; *Respondents:* State or local governments; *Estimated Number of Responses:* 443,000; *Average Hours Per Response:* .16; *Total Estimated Burden Hours:* 70,880.

5. *Type of Request:* New; *Title of Information Collection:* Examination and Treatment for Emergency Medical Conditions and Women in Labor and 42 CFR 489.24 Essentials of Provider Agreement Responsibilities of Medicare Participating Hospitals in Emergency Cases; *Form No.:* HCFA–1514A/B; *Use:* Under Section 1867 of the Social Security Act, Examination and Treatment for Emergency Medical Conditions and Women in Labor, effective August 1986, hospitals may continue to participate in Medicare only if they are not out of compliance with its provisions. We need to provide this tool to surveyors to promote uniform and thorough application of the requirements and to gather information frequently requested by Congress and other interested parties regarding implementation of the statute; *Frequency:* On occasion; *Respondents:* Federal agencies or employees, nonprofit institutions, State or local governments, individuals or households; *Estimated Number of Responses:* 350; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 87.5.

6. *Type of Request:* New; *Title of Information Collection:* Evaluation of Patient and Physician Satisfaction With the Medicare Participating Heart Bypass Center Demonstration; *Form No.* HCFA–R–166; *Use:* This requirement provides HCFA with information to determine whether lowering the amount paid for heart bypass procedures compromises the care provided to Medicare beneficiaries; *Frequency:* One-time survey; *Respondents:* Individuals or households; *Estimated Number of Responses:* 840; *Average Hours Per Response:* .35; *Total Estimated Burden Hours:* 294.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966-5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 3001, Washington, D.C. 20503.

Dated: September 29, 1994.

Kathleen Larson,

Acting Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 94–24665 Filed 10–4–94; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–94–3822; FR–3776–N–01]

Notice of Request for Comments on Fair Housing Initiatives Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Request for Comments on Fair Housing Initiatives Program (FHIP).

SUMMARY: This Notice invites interested parties to comment on the Department's administration of FHIP funding.

DATES: Comments Due Date: November 21, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this Notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In anticipation of the next round of funding under the Fair Housing Initiatives Program, the Department invites comment from potential applicants, prior grantees and applicants, and any other interested parties, on the administration of FHIP funding. The Department is especially interested in soliciting comments on the application procedures for funding in general, and on the content of FHIP Notices of Funding Availability (NOFAs) in particular. The Department will consider the comments received in response to this Notice when formulating plans for the disposition of funds appropriated for Fiscal Year 1995.

Dated: September 23, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–24625 Filed 10–4–94; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–4350–08]

Notice of Emergency Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Emergency Closure of McIntire Springs property in Conejos County, Colorado to all public use from October 1, 1994 through February 15, 1995.

SUMMARY: Notice is hereby given that effective October 1, 1994, public lands described below are closed to all public use. Under the authority and requirement of 43 CFR 8364.1, and the Federal Land Policy and Management Act of 1976. This closure affects 535 acres of public lands in Conejos County located in T. 35 N., R. 10 E., Sec. 12: SE¼ NE¼, and the E½SE¼, and Sec. 13: N½NE¼ and SE¼NE¼, T. 35 N., R. 11 E., Sec. 7: Lots 2, 3, 4, SE¼NW¼ less Pikes Stockade, NE¼SW¼ and SE¼SW¼, and Sec. 18: Lots 1 and 2. The purpose of this closure is to minimize disturbance and protect critical wintering waterfowl habitat, reduce overcrowding and minimize outbreaks of avian cholera in wintering waterfowl populations. These restrictions do not apply to emergency, law enforcement and Federal, State or other government personnel who are in the area for official or emergency purposes and who are expressly authorized or otherwise officially approved by BLM. Any person who fails to comply with this closure order may be subject to the penalties provided by

43 CFR 8360.0–7 which includes fines not to exceed $1,000 and/or imprisonment not to exceed 12 months. Notice of this closure will be posted at the site, San Luis Resource Area Office and at the Canon City District Office.

DATES: This emergency closure is in effect from October 1, 1994 to February 15, 1995 and shall remain in effect unless revised, revoked or amended.

ADDRESSES: Comments can be directed to the Area Manager, San Luis Resource Area, 1921 State St., Alamosa, CO 81101 or District Manager, Canon City District Office, P.O. Box 2200, Canon City, CO 81215–2200.

FOR FURTHER INFORMATION CONTACT: Julie Howard, Area Manager at (719) 589–4975.

Stuart L. Freer,
Associate District Manager.

[FR Doc. 94–24569 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–JB–M

[AZ–040–4351–02]

Availability of the Safford District Resource Management Plan Amendment and Environmental Assessment No. AZ–040–03–021

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management has prepared an amendment to the Safford District Resource Management Plan finding Cienega Creek eligible for further study as a possible Wild and Scenic River under provisions of Public Law 92–542 with a tentative classification as Scenic. An Environmental Assessment of impacts resulted in a Finding of No Significant Impact.

DATES: Except for any portion under protest, the Arizona State Director may approve the plan 30 days after publication of this notice in the **Federal Register**.

ADDRESSES: Comments should be sent to: Area Manager, Bureau of Land Management, 12661 E. Broadway, Tucson, Arizona 85748.

FOR FURTHER INFORMATION CONTACT: Don Ducote at the address above or telephone (602) 722–4289.

Dated: September 27, 1994.

William T. Civish,
District Manager.

[FR Doc. 94–24570 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–32–M

[ES–030–04–4830–01–25–7A]

Eastern States: Change in Milwaukee District Office Hours of Operation

SUMMARY: Effective November 15, 1994, the Milwaukee District Office hours of operation will be Monday through Friday, 7:30 a.m. to 4:30 p.m. Comments shall be submitted by October 31, 1994.

FOR FURTHER INFORMATION CONTACT: Judy Patterson, ADM, Administration, (414) 297–4406.

Submit Written Comments To: Bureau of Land Management, Milwaukee District Office, P.O. Box 631, Milwaukee, Wisconsin 53201–0631.

Dated: September 27, 1994.

Gary D. Bauer,
District Manager.

[FR Doc. 94–24668 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–GJ–M

Office of the Secretary

Privacy Act of 1974; Establishment of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new system of records to be maintained by the Office of Financial Management. The system, entitled "Delinquent Debtors File—Interior, OS–84," will include information pertaining to current Departmental employees, former Departmental employees, and other Federal employees indebted and owing money to the Department, who have been identified as delinquent debtors. The information contained in this system will be used for the purpose of collecting debts owed to the Department through administrative offset or salary offset procedures. The notice is published in its entirety below.

As required by the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), the Office of Management and Budget, the Senate Committee on Governmental Affairs, and the House Committee on Government Operations have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires a 40-day period in which to review such proposals. Written comments on this proposal can be addressed to the Departmental Privacy Act Officer, Office of the Secretary, Office of Administrative Services, 1849 "C" Street NW, Mail Stop 5412 MIB, Washington, DC 20240, telephone (202) 208–6045. Comments received within 40 days of publication in the **Federal Register** (November 14, 1994), will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: September 16, 1994.

Albert C. Camacho,
Director, Office of Administrative Services.

INTERIOR/OS–84

SYSTEM NAME:

Delinquent Debtor File—Interior, OS–84.

SYSTEM LOCATION:

U.S. Department of the Interior, Office of the Secretary, Division of Financial Management, m.s. 7258 MIB, 1849 C St. NW, Washington, DC 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and other Federal employees indebted and owing money to the Department of the Interior.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delinquent debt records consisting of the debtor's name, Social Security Number, address, amount of debt, date debt arose, office referring debt, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966, Pub. L. 89–508, Debt Collection Act of 1982, Pub. L. 97–365, and E.O. 9397.

PURPOSE(S):

The primary purpose of the records is to collect debts owed to the Department using salary offset or administrative offset procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures outside the Department of the Interior may be made: (1) To the General Accounting Office, Department of Justice, United States Attorney, or other Federal agencies for further collection action on any delinquent account when circumstances warrant; (2) To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection; (3) To a debt collection agency for the purpose of collection services to recover indebtedness owed to the Department; (4) To any Federal agency where the

individual debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect debts on the Department's behalf by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365); (5) To any other Federal agency including, but not limited to, the Internal Revenue Service pursuant to 31 U.S.C. 3720A, for the purpose of effecting an administrative offset against the debtor of a delinquent debt owed to the Department by the debtor; (6) To the Internal Revenue Service by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by the Department against the taxpayer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 37121, 3716, and 3718. Note: The Department will disclose an individual's mailing address obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2) only for the purpose of debt collection. Disclosures to a debt collection agency will be made only to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982. Disclosures to a consumer reporting agency will be made only for the limited purpose of obtaining a commercial credit report on the individual taxpayer. Address information obtained from the Internal Revenue Service will not be used or shared for any other Departmental purpose or disclosed to another Federal, state, or local agency which seeks to locate the same individuals for its own debt collection purpose; (7) To the Defense Manpower Data Center, Department of Defense, the U.S. Postal Service or to any other Federal, state, or local agency, a data base of information consisting of the debtor's name, Social Security Number, and amount owed, for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, so as to identify and locate delinquent debtors in order to start a recoupment process on an individual basis of any debt owed to the Department by the debtors arising out of any administrative or program activities or services administered by the Department; (8) To any creditor Federal agency seeking assistance for the purpose of that agency implementing administrative or salary offset procedures in the collection of unpaid financial obligations owed the United States government from an individual. (9) To the U.S. Department of Justice or to a court or adjudicative body with jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (10) Of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (11) To a congressional office in response to an inquiry the individual has made to the congressional office.

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 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in automated and manual form.

RETRIEVABILITY:

Records are retrieved by the name or Social Security Number of the individual debtor.

SAFEGUARDS:

Records are maintained with access controls meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained by the Division of Financial Management only for the duration of computer matching programs. Upon conclusion of these programs, records are returned to their respective, originating offices, where they are retained and disposed of in accordance with approved agency schedules. Backup copies are retained for one calendar year, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Financial Management, Office of the Secretary, U.S. Department of the Interior, m.s. 7258 MIB, 1849 C St. NW, Washington, DC 20240.

NOTIFICATION PROCEDURE:

An individual requesting notification of the existence of records on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual requesting access to records maintained on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on him or her should address his/her request to the System Manager. The request must be in writing, signed by the requester, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Departmental and Bureau financial offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 94–24666 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–RK–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–794583

Applicant: Michelle Pomeroy, Madison, WI

The applicant requests a permit to import blood smears taken from live-trapped cheetahs (*Acinonyx jubatus*) in Namibia, for the purpose of enhancement of the survival of the species through scientific research.

PRT–794479

Applicant: Cincinnati Zoo, Cincinnati, OH

The applicant requests a permit to import a pair of captive-bred babirusa (*Babyrousa babyrussa*), as well as blood samples taken from each, for the purpose of scientific research and enhancement of propagation or survival of the species.

PRT–794951

Applicant: Baltimore Zoo, Baltimore, MD

The applicant requests a permit to import one female leopard (Panthera pardus) from the National Zoological Gardens, South Africa to the Baltimore Zoo for enhancement of the species through conservation education.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 30, 1994.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–24650 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–55–P

Issuance of Permit for Marine Mammals

On June 2, 1994, a notice was published in the **Federal Register**, Vol. 59, No. 105, Page 28558, that an application had been filed with the Fish and Wildlife Service by Washington State University for a permit (PRT–789955) to collect blood and adipose tissue samples, collect vestigial premolars, hair and claw tip clippings, tattoo and tag up to 50 polar bears and radio-collar and release 2 male and 8 female polar bears.

Notice is hereby given that on September 1, 1994, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 420(c), Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: September 30, 1994.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–24651 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–55–P

Finding of No Significant Impact for an Incidental Take Permit for the Proposed Cedar Park Waterline in Travis County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessment for issuance of a Section 10(a)(1)(B) permit for the incidental take of the Federally endangered golden-cheeked warbler (*Dendroica chrysoparia*) during the construction and operation of a water pipeline in Travis County, Texas.

Proposed Action

The proposed action is the issuance of a permit under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden-cheeked warbler.

The Applicant plans to construct a 20,193-foot long water supply pipeline from Lake Travis eastward to the Williamson County line. The Applicant proposed to preserve documented perch trees for the warbler along the route, limit clearing to 35 feet wide along the route and two 100-feet by 100-feet staging areas in non-habitat; schedule work during the season when the warblers are absent from the area (August 1 through March 1); and the purchase and dedication of 33 acres of occupied warbler habitat to a conservation organization approved by the Service. Details of the mitigation are provided in the Cedar Park Waterline Environmental Assessment/Habitat Conservation Plan. Guarantees for implementation are provided in the Agreement. These conservation plan actions ensure that the criteria established for issuance of an incidental take permit will be fully satisfied.

Alternatives Considered

1. No action,
2. Proposed action,
3. Alternate project route,
4. Additional alternate project route,
5. Wait for issuance of a Section 10(a)(1)(B) permit.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plan, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permit for the construction and operation of the Cedar Park Water System Improvement Pipeline in northwest Travis County, Texas.

John G. Rogers,

Regional Director, Southwest Region (2), U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

[FR Doc. 94–24667 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–55–P

Notice of Availability of Record Decision for the Patoka River National Wetlands Project, Pike and Gibson Counties, IN

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice; Record of Decision for the Patoka River National Wetlands Project.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) has issued a Record of Decision (ROD) establishing the Patoka River National Wetlands Project (Project) located in Pike and Gibson Counties, Indiana. The decision was based on the entire administrative record for the 8-year planning process, including all issues and concerns received in response to the Draft and Final Environmental Impact Statements. The ROD is available to the public.

DATES: The decision to implement the Project through the selection of the preferred alternative identified in the Final Environmental Impact Statement was made on September 7, 1994.

ADDRESSES: Individuals wishing copies of this ROD should contact: Project Manager, U.S. Fish and Wildlife Service, Patoka River National Wetlands Project, 510½ West Morton Street, Box 217, Oakland City, Indiana 47660.

FOR FURTHER INFORMATION CONTACT: Mr. William McCoy, Project Manager, telephone (812) 749–3199.

SUPPLEMENTARY INFORMATION: The ROD documents the decision of the Service to establish the Patoka River National Wetlands Project in Pike and Gibson

Counties, Indiana. The Service selected Alternative 4, described as the preferred alternative in the Final Environmental Impact Statement, as the best alternative for implementing the Project. This action includes the acquisition from willing sellers of 6,800 acres for the Patoka River National Wildlife Refuge and acquisition of Wildlife Management Areas from within an adjacent 15,283-acre selection area. The ROD identifies the alternatives considered, the issues and concerns raised during the 8-year planning process, the rationale for choosing the selected alternative, and the impacts of this selection.

The Project encompasses one of the last remaining stretches of bottomland forest in Indiana and the Midwest. It provides some of the best wood duck production habitat in the State and is used by threatened and endangered species including bald eagles, Indiana bats, and the proposed northern copperbelly watersnake. Project lands will be managed to protect and enhance bottomland hardwood forests, other wetland habitats, and complementary uplands. The goal is to provide essential food, cover and resting areas for migratory birds, threatened and endangered species, and resident fish and wildlife; and to improve outdoor recreation and education opportunities for the American people. Copies of the ROD have been sent to all landowners within the proposed Project boundaries; to Federal, state and local government officials; interested parties; and all individuals, agencies and organizations who requested copies.

Sam Marler,

Regional Director.

[FR Doc. 94–24605 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Notice on Outer Continental Shelf Gas and Oil Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf gas and oil lease sales to be held during the bidding period from November 1, 1994, through April 30, 1995. The List of Restricted Joint Bidders published March 28, 1994, in the **Federal Register** at 59 FR 14425 covered the period of May 1, 1994, through October 31, 1994.

Group I. Chevron Corporation; Chevron U.S.A. Inc.

Group II. Exxon Corp.; Exxon San Joaquin Production Co.

Group III. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Onshore Ventures Inc.

Group IV. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group V. BP America Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: September 27, 1994.

Robert E. Brown,

Acting Director, Minerals Management Service.

[FR Doc. 94–24628 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 24, 1994. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 20, 1994.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

ARKANSAS

Carroll County

Yocum Creek Skirmish Site, Along AR 103 and Carroll Co. Rds. 81 and 93, Green Forest vicinity, 94001235

CALIFORNIA

Los Angeles County

Glendale Young Men's Christian Association, 140 N. Louise St., Glendale, 94001224

Sonoma County

Glen Oaks Ranch, 13255 Sonoma Hwy., Glen Ellen, 94001223

Yolo County

Hotel Woodland, 426 Main St., Woodland, 94001225

COLORADO

Boulder County

Hotel Boulderado, 2115 13th St., Boulder, 94001226

Mount St. Gertrude Academy, 970 Aurora St., Boulder, 94001227

Douglas County

Cherokee Ranch, N of Co. Rd. 85 and S of Daniels Park Rd., Sedalia vicinity, 94001228

El Paso County

Shrine of the Sun, 4250 Cheyenne Mountain Zoo Rd., Colorado Springs, 94001229

Jefferson County

Hill Section, Golden Hill Cemetery, 12000 W. Colfax Ave., Lakewood vicinity, 94001230

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Alibi Club, 1806 I St., NW., Washington 94001221

MISSISSIPPI

Chickasaw County

Thelma Mound Archaeological Site, Address Restricted, Houston vicinity, 94001222

MISSOURI

Clay County

Wheeling Corrugating Company Building, 820 E. 14th Ave., North Kansas City, 94001220

NEBRASKA

Cheyenne County

Christ Episcopal Church, Jct. of 10th Ave, and Linden St., Sidney, 94001232

Sidney Historic Business District, Roughly bounded by Hickory and King Sts. and 9th and 11th Aves., Sidney, 94001233

Sioux Ordnance Depot Fire & Guard Headquarters, Jct. of 1st Ave. and Military Rd., Western Nebraska Community College, Sidney vicinity, 94001234

Kimball County

Maginnis Irrigation Aqueduct, S of NE 30, 5 mi. W of Kimball, Kimball vicinity, 94001231

NEW YORK

Suffolk County

Horton Point Lighthouse, N end of Lighthouse R., Southold, 94001237

SOUTH CAROLINA

Georgetown County

Hobcaw Barony (Georgetown County Rice Culture MPs), Roughly bounded by US 17, Winyah and Mud Bays and Jones Cr., Georgetown vicinity, 94001236

VIRGINIA

Lancaster County

Locusville, ½ mi. E of jct. of VA 354 and VA 625, E side, Ottoman vicinity, 94001239

Richmond Independent City

200 Block West Franklin Street Historic District (Boundary Increase), 212–220 W. Main St., Richmond, 94001238

[FR Doc. 94–24562 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–70–M

Availability of Record of Decision, Final General Management Plan Amendment and Final Environmental Impact Statement, Presidio of San Francisco, Golden Gate National Recreation Area, San Francisco, CA

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, Public Law 91–190 and the regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service (NPS) has issued a Record of Decision on the Final General Management Plan Amendment (FGMPA)/ Final Environmental Impact Statement (FEIS) for the Presidio of San Francisco.

This action amends the 1980 Golden Gate General Management Plan as it pertains to the Presidio of San Francisco in accordance with the Proposed Action, Alternative A in the FGMPA/ FEIS issued in August 1994. The Draft GMPA/EIS was issued in October 1993. Under the proposed action, Alternative A, cultural and natural resources throughout the Presidio would be preserved and enhanced, and major new programs would be established through public/private partnerships.

Copies of the Record of Decision may be obtained from the Superintendent, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123 Telephone 415–556–3110 or from the Dan Olsen, National Park Service Western Regional Office, Division of Planning, Grants and Environmental Quality, 600 Harrison Street, Suite 600 San Francisco, CA 94107–1372 Telephone 415–744–3968.

Dated: September 27, 1994.

Denis P. Galvin,

Associate Director, Planning and Development.

[FR Doc. 94–24561 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–70–P

Office of Surface Mining Reclamation and Enforcement

Navajo Museum/Library/Culture Center Grant Application

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

ACTION: Notice of request for grant funding; public comment period on Navajo Museum/Library/Culture Center funding request.

SUMMARY: OSM is announcing receipt of a grant application requesting funds to partially pay for construction of the Navajo Museum/Library/Culture Center (museum) as proposed by the Navajo Museum and Library Foundation, Inc. (Museum Foundation), acting through the Navajo Abandoned Mine Land Reclamation Department (NAMLRD). The application requests $3 million to partially fund construction of the museum in Window Rock, Arizona, as a public facilities project related to the coal or minerals industry on Navajo Indian lands impacted by coal or minerals development.

DATES: Written comments must be received by 4 p.m., Mountain time on November 4, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below. Copies of NAMLRD's grant application for the museum funding request 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 grant application by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., suite 1200, Albuquerque, New Mexico, 87102.

The Navajo Nation, P.O. Box 308, Window Rock, Arizona, 86515 (602) 871–4941.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Ehmett, telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program to reclaim and restore lands and waters adversely affected by past mining. The program is funded by a reclamation fee levied on coal production. Lands and waters eligible for reclamation under Title IV primarily are those that were mined or affected by mining and abandoned or inadequately reclaimed prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal Tribal, or other laws.

Title IV provides for State or Tribal submittal to OSM of an AMLR plan. The Secretary of the Interior adopted regulations in 30 CFR Parts 870 through 888 that implement Title IV of SMCRA. Ordinarily, a State or Tribe must have a surface mining regulatory program approved pursuant to section 405 of SMCRA prior to submittal of an AMLR plan to OSM. However, on July 11, 1987, the President signed a supplemental appropriations bill (P.L. 100–71) that authorized the Crow and Hopi Tribes and the Navajo Nation to administer AMLR programs without approval of Tribal surface mining regulatory programs. Pursuant to those provisions, the Secretary reviewed the plans submitted by Tribes and solicited and considered comments of State and Federal agencies and the public. After considering the comments received, if the Secretary determined a Tribe had the ability and necessary legislation to implement the provisions of Title IV, the Secretary approved the Tribal program and granted the Tribe exclusive authority to administer its plan.

Upon approval of a Tribe's AMLR plan by the Secretary, the Tribe may submit to OSM, on an annual basis, an application requesting funds for specific projects that are necessary to implement the approved plan. Funding requests are reviewed and approved by OSM in accordance with the requirements of 30 CFR Parts 874, 875, and 886.

II. Background on the Navajo Nation Plan

The Secretary of the Interior approved the Navajo Nation's AMLR plan on May 16, 1988. General information on the Navajo Nation's plan, including the Secretary's findings, the disposition of comments, and the approval of the plan, is in the May 16, 1988, **Federal Register** (53 FR 17186). Approval of the Navajo Nation Plan is codified at 30 CFR 756.13.

By letters dated April 7 and 22, 1994, the Navajo Nation submitted a proposed amendment to its plan pursuant to SMCRA (administrative record Nos. NA–207, NA–208, and NA–212). The Navajo Nation submitted the proposed amendment with the intent of revising its plan to make it consistent with SMCRA and to improve operational efficiency. OSM approved the plan amendments in the September 27, 1994, **Federal Register** (59 FR 49178).

Provisions of the plan, which includes the Navajo AMLR Code, that the Navajo nation amended and which are pertinent to this proposed action include: Section 409, filling voids and sealing tunnels; and section 411, certification of completion of coal reclamation, authorization to perform priorities one, two, and three noncoal reclamation, and authorization to undertake community impact assistance and public facilities projects.

Provisions of the plan, which includes the Navajo AMLR Rules, that

the Navajo Nation amended and which are pertinent to this proposed action include: Part D, coal reclamation priorities and noncoal reclamation priorities prior to certification; Part L, general reclamation requirements for coal and noncoal; Part M, certification of completion of coal sites; Part N, eligible lands and water subsequent to certification; Part O, exclusion of noncoal reclamation sites; and Part P, utilities and other facilities.

III. Background on the Navajo Nation's Certification of Coal Completion

By letter dated May 4, 1994, the President of the Navajo Nation notified the Secretary that the Navajo Nation intends to reclaim all remaining eligible abandoned coal mines, including interim abandoned coal mines, as required by section 403(a) of SMCRA (administrative record No. NA–213). OSM is aware there are eligible abandoned coal mines on Navajo Indian lands yet to be reclaimed by the Navajo Nation. However, the Nation has sufficient AMLR funds in reserve to reclaim the remaining eligible abandoned coal mines. The Navajo Nation also submitted a grant application to OSM that, upon approval of the proposed amendment, will enable it to reclaim those mines.

In addition, the Navajo Nation submitted a request for the Secretary's concurrence with its certification of completion of all known coal-related problems pursuant to section 411(a) of SMCRA and 30 CFR 875.13. The Secretary's concurrence with the certification was published in the September 27, 1994, **Federal Register** (59 FR 49178).

IV. Museum Funding Request

Section 411 of SMCRA provides that once a State or Tribe certifies that it will address all remaining abandoned coal mine problems, and the Secretary concurs, then that State or Tribe may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f), respectively. The Navajo Nation President and the Navajo Museum and Library Foundation, Inc., first expressed interest in obtaining OSM funds for the museum under section 411(f) in late June and early July 1993. OSM informed the Navajo Nation at that time and on a number of occasions since of the administrative requirements that the Nation must fulfill before OSM can consider a funding request under section 411(f) of SMCRA. Those requirements included: Revising the Navajo Nation's AMLR plan to include provisions authorizing NAMLRD to reclaim remaining eligible abandoned interim coal mines and to undertake projects under sections 411 (e) and (f); certifying that all remaining abandoned coal mine problems will be addressed; submitting an application for funds to reclaim all remaining eligible abandoned coal mine problems; and submitting an application for funds for the museum.

Anticipating that those administrative requirements would be fulfilled, the Museum Foundation developed a grant application that NAMLRD submitted to OSM on January 21, 1994, requesting $3 million from the Navajo Nation's share of the Abandoned Mine Reclamation Fund to partially pay for construction of the museum. NAMLRD submitted the application because it is the recipient of AMLR funds from OSM for abandoned mine reclamation, community impact assistance, and public facilities projects pursuant to sections 411 (b), (e), and (f) of SMCRA. The Museum Foundation would be a subrecipient if the grant request for $3 million is approved.

Under the provisions of section 411(f), the President of the Navajo Nation has determined there is a need for such a public facility related to the coal and minerals industry. According to the application, the museum will display Navajo crafts and culture materials in order to preserve the culture for future generations. It will include demonstration areas in the museum where traditional Navajo arts and crafts will be made. A children's museum and library will also be available. A visitor center will display art and photographs of historical and sacred places on or near the Navajo Reservation and an exhibit showing the impact of coal and minerals mining in the growth and development of the Navajo Nation. The total cost of the museum is estimated to be about $7.85 million.

OSM's formal review of the grant application requesting the museum funding will be conducted in the context of the regulations at 30 CFR 875.15. Specific provisions applicable to the museum request include sections 875.15(e) (1) through (7). Those regulations require the application to specifically set forth: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on the coal or minerals industry in the State or Indian Tribe; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities regarding what funding resources they have available and why this specific project is not being fully funded by their agency; (5) the impact on the State or Indian Tribe, the public, and the minerals industry if the activity or facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures used by the State or Indian Tribe to notify and involve the public in this funding request and a copy of all comments received and their resolution by the State or Indian Tribe.

In accordance with 30 CFR 875.15(f), the OSM Director must prepare a **Federal Register** notice regarding the museum funding request and provide for public comments. Section 875.15(f) further requires OSM to evaluate all comments received and to determine whether the funding meets the requirements of sections 875.15(e) (1) through (7) and if it is in the best interests of NAMLRD's program. If OSM concludes that the museum request satisfies all the requirements of section 875.15, OSM will approve the funding request at a cost commensurate with its benefits toward achieving the purposes of SMCRA.

V. Public Comment Procedures

In accordance with 30 CFR 875.15(f), OSM is seeking public comments on the museum funding request. Written comments should be specific and should pertain to the museum request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. Comments should include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in OSM's final decision or included in the administrative record.

Dated: September 29, 1994.

Ed Kay,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 94–24608 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–349]

Certain Diltiazem Hydrochloride and Diltiazem Preparations; Notice

Notice is hereby given that the prehearing conference in this matter will commence at 10:00 a.m. on October 17, 1994, in Courtroom A (Room 100), U.S. International Trade Commission Building, 500 E St. S.W., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register**.

Issued: September 27, 1994.

Sidney Harris,

Administrative Law Judge.

[FR Doc. 94–24638 Filed 10–4–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–361]

Certain Portable On-Car Disc Brake Lathes and Components Thereof; Notice of Commission Determinations to Review and Remand to the Presiding Administrative Law Judge Certain Portions of an Initial Determination Terminating the Investigation on the Basis of a Finding of No Violation of Section 337, and to Designate the Investigation More Complicated

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review certain portions of the initial determination (ID) issued on August 12, 1994, in the above-captioned investigation, and to remand the investigation to the presiding administrative law judge (ALJ) for further proceedings. The Commission has further determined to designate this investigation "more complicated" and to direct that the ALJ's ID on remand be issued by November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3090.

SUPPLEMENTARY INFORMATION: On November 24, 1993, the Commission instituted an investigation of a complaint filed by Pro-Cut International, Inc. ("Pro-Cut") under section 337 of the Tariff Act of 1930. The complaint alleged that two respondents imported, sold for importation, or sold in the United States after importation certain portable on-car disc brake lathes and components thereof that infringed the sole claim of U.S. Letters Patent 4,226,146 ("the '146 patent"). The Commission's notice of investigation named as respondents Hunter Engineering Company ("Hunter") and Ludwig Hunger Maschinenfabrik GmbH ("Hunger"), each of which was alleged to have committed one or more unfair acts in the importation or sale of portable on-car disc brake lathes that infringe the asserted patent claim.

The ALJ conducted an evidentiary hearing on May 2–4, 1994, and issued his final ID on August 12, 1994. He found that: (1) Respondents' imported product does not infringe the asserted patent claim; (2) complainant satisfied the economic requirements for existence of a domestic industry; but that (3) there is no domestic industry because complainant is not practicing the '146 patent. Based upon his findings no infringement and no domestic industry, the ALJ concluded that there was no violation of section 337. Respondents have not challenged the validity of the '146 patent in this investigation.

Complainant Pro-Cut filed a petition for review of the ALJ's findings on both infringement and the domestic industry's failure to practice the patent. Respondents filed a petition for review of the ALJ's findings on the economic requirements for a domestic industry. Complainant, respondents, and the Commission investigative attorneys filed responses to the petitions for review. No agency comments were received.

On September 28, 1994, the Commission determined, by a vote of four to two, to review the subject ID and to remand it to the ALJ for further explanation on two narrow issues. Specifically, the Commission was unable to discern from the ID the ALJ's reasoning underlying his findings of no infringement and no domestic industry under the doctrine of equivalents. Accordingly, the ALJ was instructed to address the following questions on remand:

1. Whether the accused device performs substantially the same function as disclosed in the "means for attaching" clause in claim 1 of the '146 patent?

2. Whether the accused device operates in substantially the same way as disclosed in the "means for attaching" clause in claim 1 of the '146 patent?

3. Whether the accused device achieves substantially the same result as disclosed in the "means for attaching" clause in claim 1 of the '146 patent?

4. To what scope of equivalents is the '146 patent entitled?

5. Whether, in light of questions 1–4 raised above, the domestic industry is practicing the '146 patent under the doctrine of equivalents?

The ALJ was further instructed to make specific factual findings with respect to each remanded question, to indicate what record evidence supports those findings, and to provide an analysis of his ultimate determination on each issue. The Commission determined to adopt the ID in all other respects.

On September 28, 1994, the Commission also determined to declare this investigation "more complicated" in order to provide the parties, the presiding ALJ, and the Commission with adequate time to address the remanded issues and complete the investigation. The 18-month statutory deadline for completion of this investigation was therefore extended to June 1, 1995. However, the Commission expects to complete the investigation prior to the statutory deadline.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), and §§ 210.53, 210.56, and 210.59 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53, 210.56, and 210.59).

Copies of the Commission's order, the non-confidential version of the ID, and all other non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: September 29, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–24639 Filed 10–4–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 495X)]

CSX Transportation, Inc.—Abandonment Exemption—In Lawrence County, IN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 6.7-mile line of railroad extending between milepost Q-245.0, at Bedford, and milepost Q-251.7, near Mitchell, in Lawrence County, IN.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 4, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by October 17, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 25, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water St., J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 7, 1994. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 26, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94-24495 Filed 10-4-94; 8:45 am]

BILLING CODE 7035-01-P

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Finance Docket No. 32576]

South Central Florida Express, Inc.—Acquisition and Operation Exemption—Certain Lines of Brandywine Valley Railroad Company

South Central Florida Express, Inc., a noncarrier, has filed a notice of exemption to acquire and operate certain lines of railroad currently owned by the Brandywine Valley Railroad Company and operated as the South Central Florida Railroad. The locations of the rail lines to be acquired and operated are as follows: (1) From Sebring, FL (milepost AVC 875.00) to Lake Harbor, FL (milepost AVD 957.99) and (2) from Keela, FL (milepost AVF 953.69) to Okeelanta, FL (milepost AVF 970.50), totaling approximately 103 miles. The transaction was expected to be consummated on or after September 16, 1994.

All comments must be filed with the Commission and served on: Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005-4797.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 27, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94-24621 Filed 10-4-94; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) the title of the form/collection;

(2) the agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) how often the form must be filled out or the information is collected;

(4) who will be asked or required to respond, as well as a brief abstract;

(5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) an estimate of the total public burden (in hours) associated with the collection; and,

(7) an indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you

anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, suite 850, WCTR, Washington, DC 20530.

Revision of a currently approved collection:

(1) Supplement A to Form I–485 entitled Application to Register Permanent Residence or Adjust Status.

(2) Supplement A to Form I–485. Immigration and Naturalization Service.

(3) On Occasion.

(4) Individuals or households.

(5) 50,000 annual respondents at .216 hours per response.

(6) 10,800 total annual reporting hours.

(7) Not applicable under Section 3504(h) of Public Law 96–511.

Dated: September 24, 1994.

Public comment on this item is encouraged.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–24609 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–10–M

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that on September 16, 1994, a proposed consent decree in *United States* v. *William Davis, et al.*, No. 90–484–P, was lodged with the United States District Court for the District of Rode Island. The decree resolves claims of the United States against defendants Clariol, Inc, and CIBA–GEIGY Corporation ("Settling Defendants") in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Davis Liquid Waste Site in Smithfield, Rhode Island (the "Site"). In the proposed consent decree the Settlement Defendants agree to make payments to the United States totalling $3,475,000.00 in settlement of the United States' claims for response costs incurred and to be incurred by the Environmental Protection Agency at the Site.

The proposed decree may be examined at the Office of the United States Attorney, 10 Dorrance Street, Providence, Rhode Island; and at the Environmental Enforcement Section Consent Decree Library, 1120 G Street, N.W., Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.25 (twenty-five cents per page for reproduction) payable to the Consent Decree Library.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *William Davis, et al.*, DOJ Reference 90–11–2–137B.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–24670 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on September 23, 1994, a proposed Consent Decree in *United States* v. *General Refining Company, et al.*, Civ. No. CV 494–215, was lodged on September 23, 1994 with the United States District Court for the Southern District of Georgia. The Complaint, brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9607, seeks recovery of past response costs incurred by the United States in connection with the General Refining Superfund Site, Garden City, Georgia (the "Site"). The Site is situated in Chatham County, Georgia, and occupies approximately 16 acres. The Site was used from the early 1960's until at least the 1975 for recovery and storage of waste oil.

The Consent Decree in *United States* v. *General Refining Company, et al.* provides that the Settling Defendant and Settling Federal Agencies will pay a total of $2,150,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530. Comments should refer to *United States* v. *General Refining Company, et al.*, D.O.J. Ref. 90–11–3–561A.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Georgia, 100 Bull Street, Savannah, Georgia 31404; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and at the Consent Decree Library 1120 G Street, N.W., Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the reference case and enclose a check in amount of $15.00 for the Consent Decree (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–24671 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 1, 1994, and published in the **Federal Register** on July 12, 1994, (59 FR 35530), Arenol Chemical Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
Amphetamine (1100)	II
Methamphetamine (1105)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, §1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: September 28, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–24574 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to §1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 8, 1994, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administrtation (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Hydromorphone (9150).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

Dated: September 28, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–24575 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

[INS No. 1626FN–94]

Final Programmatic Environmental Impact Statement to Continue the Program of Protecting the Southwest Border Through the Interdiction of Illegal Drugs With the Support of Joint Task Force Six

AGENCY: The Immigration and Naturalization Service, Justice (lead); Joint Task Force Six (cooperating); Environmental Protection Agency (cooperating).

ACTION: Notice of Availability of the Final Programmatic Environmental Impact Statement (FPEIS).

SUMMARY: This Notice is to notify interested parties that the Immigration and Naturalization Service (INS) has prepared a FPEIS for the proposed continuation of the Joint Task Force Six (JTF–6) support program. The JTF–6 program involves providing operational, engineering, and general support to law enforcement agencies (LEAs) that have drug interdiction responsibilities within the southwestern border states. The Draft PEIS was filed with the Environmental Protection Agency (EPA) and published in the **Federal Register** on April 15, 1994, at 59 FR 18115; the Notice of Availability (NOA) of the Draft PEIS was published on May 19, 1994, in the **Federal Register** at 59 FR 26322. Comments on the Draft PEIS were received from five Federal Agencies, five State Agencies, and four private individuals/organizations. A request for an extension of time for review and comment was received from individuals in Laredo, Texas, and the U.S. Department of Interior. The request was granted and the comment period was extended from May 30, 1994, to June 10, 1994. Copies of all comments and responses are documented in the FPEIS. The FPEIS was filed with the EPA on August 11, 1994, and published on August 19, 1994, in the **Federal Register** at 59 FR 42831. One private individual/organization commented on the FPEIS. The Record of Decision (ROD) is currently being prepared and will be available for public review after its completion.

ADDRESSES: Copies of the FPEIS, "JTF–6 Activities Along the U.S./Mexico Border (Texas, New Mexico, Arizona, and California)," are available upon written request to the following address: U.S. Army Corps of Engineers, Fort Worth District, CESWF–PL–RE, P.O. Box 17300, 819 Taylor Street, Fort Worth, Texas 76102–0300.

FOR FURTHER INFORMATION CONTACT: Questions regarding the FPEIS should be directed to Mr. Eric W. Verwers, Environmental Resource Planner, U.S. Army Corps of Engineers, CESWF–PL–RE, telephone (817) 334–3246, or P.O. Box 17300, 819 Taylor Street, Fort Worth, Texas 76102–0300.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This Notice is being issued to interested parties in accordance with the National Environmental Policy Act (NEPA), Public Law 91–190, and Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR 1500–1508.

Background

JTF–6 was activated on November 13, 1989, at Fort Bliss, Texas, by the Secretary of Defense in accordance with the President's National Drug Control Strategy. The thrust of this program is the use of Department of Defense training resources in the support of agencies responsible for the fight against illegal drugs.

The mission of JTF–6 is to plan and coordinate military training along the U.S. Southwest Land Border in support of counterdrug activities by Federal, State, and Local LEAs, as requested through Operation Alliance and approved by the Secretary of Defense or a designated representative.

The JFT–6 program provides operational, engineering, and general support to LEAs operating within the Southwestern United States which have drug interdiction authorities and allows the LEAs to conduct their missions more efficiently and effectively. The actions performed by JTF–6 personnel are quite diverse, ranging from reconnaissance operations to the building and renovation of roads and radio towers. The JTF–6's primary area of concern is within a 50-mile-wide corridor along the U.S./Mexico border from Port Arthur, Texas, to San Diego, California.

The INS is responsible for the prevention of smuggling and unlawful entry of aliens into the United States. This is the task of the Border Patrol, which is also responsible for drug interdiction between the U.S. land Ports-of-Entry.

Since the Border Patrol has been the primary beneficiary of most JTF–6 engineering actions to date, INS elected to act as lead agency for the preparation of this FPEIS. The EPA and JTF–6 elected to act as cooperating agencies. A Notice of Intent (NOI) to prepare a PEIS was published on July 15, 1993, in the **Federal Register** at 58 FR 38140.

Purpose

The purpose of the FPEIS is to address cumulative environmental impacts of previous actions as well as those actions which may be developed within the reasonably foreseeable future. The FPEIS analyzes these cumulative impacts and generically examines the impacts of future individual actions based on experience with similar past actions. The FPEIS also describes the different types of actions performed by JTF–6.

Dated: September 23, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–24564 Filed 10–4–94; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–30,303]

Pathfinder Mines Corporation; Shirley Basin, WY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 12, 1994, in response to a worker petition which was filed on August 30, 1994, on behalf of workers at Pathfinder Mines Corporation, Shirley Basin, Wyoming.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 26th day of September, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–24633 Filed 10–4–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,046]

Thomas & Betts Corp; Inman, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 27, 1994 in response to a worker petition which was filed on June 27, 1994 on behalf of workers at Thomas & Betts Corp., Inman, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 26th day of September, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–24632 Filed 10–4–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,958; TA–W–29,958A TX, except Midland TA–W–29,958B NM]

TMBR/Sharp Drilling, Incorporated; Midland, TX and Operating at Various Other Locations; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on August 24, 1994.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that some workers were laid off in New Mexico and in other locations in Texas.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–29,958 is hereby issued as follows:

All workers of TMBR/Sharp Drilling, Incorporated, Midland, Texas and operating at other locations in Texas except Midland and in the state of New Mexico engaged in employment related to the exploration and drilling of crude oil and natural gas who became totally or partially separated from employment on or after May 6, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of September 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–24634 Filed 10–4–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,896].

General Electric Co. Linton, IN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at General Electric Company, Linton, Indiana. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–29,896; General Electric Company, Linton, Indiana (September 26, 1994)

Signed at Washington, DC this 28th day of September 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–24630 Filed 10–4–94; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,173; International Paper Container Div., Presque Isle, ME

TA–W–30,124; F.C.I., Freeman SD

TA-W-29,939; Commercial Flight Systems Div. of Honeywell, Phoenix, AZ

TA-W-30,038; NEC America, Inc., Hillsboro, OR

TA-W-29,969; Kollmorgen Corp., Inland Motor Div., Radford, VA

TA-W-29,772; Wilmington Steel & Construction, Inc., New Castle, PA

TA-W-30,136; Roeder Hydraulic, Inc., DBA Universal Service & Supply Co., Odessa, TX

TA-W-30,074; Cominco Metals, Magmont Operations, Bixby, MO

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-30,287; Code-A-Phone Corp., Clackamas, OR

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-30,042; Air Products & Chemicals, Inc., Wilkes Barre, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-30,095; Brad Hagood Farms, Lubbock, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,873; Allied Signal Aerospace Co., Government Electronic Systems, Teterboro, NJ

U.S. imports of aircraft parts decreased absolutely in the latest twelve month period April 1993—March 1994 compared with the same period one year earlier.

TA-W-30,087; Walport USA, Elizabeth, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations for Worker Adjustment Assistance

TA-W-30,045; Williams Southwest Drilling Co., Inc., Corpus Christi, TX

A certification was issued covering all workers separated on or after June 9, 1993.

TA-W-29,986; New York Air Brake Corp., Watertown, NY

A certification was issued covering all workers separated on or after June 3, 1993.

TA-W-29,956; Anchor Drilling Fluids USA, Inc., Houston, TX & Operating at the Following Locations: A; CA, B; LA, C; MT, D; NM, E; OK, F; TX, G; WY

A certification was issued covering all workers separated on or after June 10, 1993.

TA-W-30,050; Hilton Clothes, Inc., Linden, NJ

A certification was issued covering all workers separated on or after June 9, 1993.

TA-W-29,923; Chock Full O'Nuts, Linden, NJ

A certification was issued covering all workers separated on or after May 13, 1993.

TA-W-29,648; Seagate Technology, Bloomington, MN

A certification was issued covering all workers separated on or after February 28, 1993.

TA-W-30,256; Muelhens, Inc., New York, NY

A certification was issued covering all workers separated on or after August 19, 1993.

TA-W-30,262 & TA-W-30,262A; Mud Co., Inc., Wichita, KS & Great Bend, KS

A certification was issued covering all workers separated on or after July 20, 1993.

TA-W-30,197; Allen Drilling Co., Englewood, CO

A certification was issued covering all workers separated on or after July 25, 1993.

TA-W-29,744; Xeros Corp., Webster, NY

A certification was issued covering all workers separated on or after March 29, 1993.

TA-W-30,097, TA-W-TA-W-30,098, TA-W-30,099; Conoco, Inc., Exploration & Production, North America, Casper, WY, Lafayette, LA, Midland, TX

A certification was issued covering all workers separated on or after September 21, 1994.

TA-W-30,100, TA-W-TA-W-30,101, TA-W-30,102, TA-W-30,103; Conoco, Inc., Exploration & Production, North America, Ponca City, OK Corpus Christi, TX, Alexander, ND, West Hope, ND

A certification was issued covering all workers separated on or after September 21, 1994.

TA-W-30,096; Conoco, Inc., Exploration & Production, North America, Houston, TX With Other Operations in the Following States: A; AK, B; CO, C; LA, D; NM, E; ND, F; OK, G; TX, H; WY

A certification was issued covering all workers separated on or after September 21, 1994.

TA-W-29, 943; Cavalier Clothing, Inc.; Jamaica, NY

A certification was issued covering all workers separated on or after May 25, 1993.

TA-W-29, 934; Albex Apparel, Brooklyn, NY

A certification was issued covering all workers separated on or after May 25, 1993.

TA-W-30,281; Scott Worldwide Northwest Operations, Everett, WA

A certification was issued covering all workers separated on or after August 23, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of September 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(c) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of Articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

NAFTA-TAA-00217; Benstock Co., Inc., Buffalo, NY

The investigation revealed that criteria (3) and criteria (4) were not met. A survey was conducted with customers of the subject firm. The survey revealed that customers did not import gold

gemstone jewelry from Mexico or Canada during the relevant period.

Affirmative Determinations NAFTA-TAA

NAFTA-TAA-00211; Alfred Angelo, Inc., Horsham, PA

A certification was issued covering all workers of Alfred Angelo, Inc., Horsham, PA separated on or after December 8, 1993.

I hereby certify that the aforementioned determinations were issued during the month of September, 1994. Copies of these determinations are available for inspection Room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Date: September 28, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 94-24635 Filed 10-4-94; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,067]

Washington Steel Corporation Washington, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Washington Steel Corporation, Washington, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-30,067; Washington Steel Corporation, Washington, Pennsylvania (September 26, 1994)

Signed at Washington, D.C. this 28th day of September, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94-24631 Filed 10-4-94; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before November 21, 1994. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The Requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the Untied States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency or origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, Agricultural Marketing Service (N1-136-94-2). Poultry grading certificates and memoranda.

2. Department of Agriculture, Agriculture Marketing Service (N1-136-94-3). Call detail summaries for use of telecommunications equipment.

3. Department of the Army (N1-AU-94-27). Quality test reporting records pertaining to Army's micrographics program.

4. Department of Army (N1-AU-94-33). Housing management records.

5. Department of Commerce, Office of the General Counsel (N1-40-94-2). Litigation case files.

6. Department of State, Bureau of Economic and Business Affairs (N1-59-94-37). Routine, facilitative, and duplicative record. Policy records are scheduled as permanent.

7. Department of Treasury, (N1-58-94-3). Internal Revenue Service Collection Statute Expiration Date (CSED) Extension Extracts.

8. Department of the Treasury, Bureau of Engraving and Printing (N1-318-94-1). Records relating to the finish-out of construction of the Western Currency Production Facility in Ft. Worth, Texas.

9. Office of Technology Assessment (N1-444-94-1). Comprehensive records schedule.

10. Tennessee Valley Authority, Office of Agricultural and Chemical Development (N1-142-91-5). Comprehensive schedule.

Dated: September 21, 1994.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 94–24672 Filed 10–4–94; 8:45 am]

BILLING CODE 7517–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York; 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 amendment to Facility Operating License No. DRP–64, issued to the Power Authority of the State of New York (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 3 (Indian Point 3) located in Westchester County, New York.

The proposed amendment would revise Section 4.4 of the Indian Point Nuclear Generating Unit No. 3 Power Plant Technical Specifications. Specifically, TS 4.4.E.1 would be revised to allow a one-time extension to the 30-month interval requirement for leak rate testing of Residual Heat Removal (RHR) containment isolation valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870. A one-time schedular exemption from plant specific requirements associated with 10 CFR Part 50, Appendix J, Type C testing (local leak rate test) for the above listed RHR containment isolation valves will be processed separately. This one-time extension for leak rate testing of the RHR valves would defer the leak rate testing until the next refueling outage, when the RHR system can be removed from service as required by current procedures.

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 facilities 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:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is limited to a one-time extension of the containment isolation valve leak rate test for RHR valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870. The change does not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. Therefore, the change does not degrade the performance of any safety system assumed to function in the accident analysis. There is reasonable assurance that the extension will not result in a significant increase in valve leakage considering that a review of containment isolation valve leakage rate test results through 1990 showed that all leakage failures, except for one valve which was replaced in 1990, were random and nonrecurring. Additionally, each of the three RHR lines associated with valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870 has redundant isolation barriers and is supplied by the IVSWS [isolation valve seal water system] which would minimize any leakage past the isolation barriers. Further, due to the periodic surveillance that ensures that leakage from RHR components located outside containment does not exceed two gallons per hour, even if significant leakage past the RHR containment isolation valves occurred, this would not significantly affect off-site exposures.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not introduce new accident initiators or failure mechanisms since the change does not alter the physical characteristics of any plant system or component. The change is limited to a one-time extension to the leak rate test interval for RHR valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The proposed amendment does not involve a significant reduction in a margin of safety. There is reasonable assurance that the extension will not result in a significant increase in valve leakage since a review of containment isolation valve leakage rate test results through 1990 showed that all leakage failures, except for one valve which was replaced in 1990, were random and nonrecurring. Additionally, each of the three RHR lines associated with valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870 has redundant isolation barriers. Further, due to the periodic surveillance that ensures that leakage from RHR components located outside containment does not exceed two gallons per hour, even if significant leakage past the RHR containment isolation valves occurred, this would not significantly affect off-site exposures.

The NRC staff had reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments 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 facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 November 4, 1994, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 White Flint Plains Public Library, 100 Martine Avenue, White Plains, New York 10601. 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 of 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 perhearing 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. The 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 amendments.

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 Michael J. Case: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, 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 September 29, 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 White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Rockville, Maryland, this 29th day of September 1994.

For the Nuclear Regulatory Commission.

Michael J. Case,

Acting Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–24597 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No.: 40-8027]

Sequoyah Fuels Corp., Gore, OK; Consideration of Amendment to Source Material License and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Sequoyah Fuels Corporation, Gore, Oklahoma; consideration of amendments to source material license and opportunity for a hearing.

This is a notice to inform the public that the U.S. Nuclear Regulatory Commission is considering issuance of an amendment to Source Material License No. SUB-1010, issued to Sequoyah Fuels Corporation, at the Sequoyah Facility, Gore, Oklahoma. The licensee requested the amendment in a letter dated September 2, 1994, to remove the requirement for a contingency plan because an evaluation performed by the licensee has shown that the conditions set forth in 10 CFR 40.31(j)(l)(i) can be met. The license amendment request is based on the analysis conducted by SAIC to demonstrate compliance with Section 40.31(j)(l)i).

The NRC hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings," of the NRC's rules of practice for domestic licensing proceedings in 10 CFR Part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivering to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding:

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Sequoyah Fuels Corporation, to the attention of Mr. John H. Ellis, President, P.O. Box 610, Gore, OK 74435; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Any hearing that is requested and granted will be held in accordance with the NRC's "Informal Hearing Procedures for Adjudications in Material Licensing Proceedings" in 10 CFR Part 2, subpart L.

For further details with respect to this action, see the application for amendment dated September 2, 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 Stanley Tubbs Memorial Library, 101 E. Cherokee, Sallisaw, Oklahoma 74955.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 30th day of September, 1994.

John H. Austin,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94-24595 Filed 10-4-94; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 217 to Facility Operating License No. DPR-59 issued to Power Authority of the State of New York, which revised the Technical Specifications (TSs) for operation of the FitzPatrick Nuclear Power Plant located in Oswego County, New York.

The amendment modifies the Safety/relief Valve (SRV) performance limits. Specifically, the requested changes: (1) Modify TS 2.2.1.B, and its associated Bases, to establish a single nominal SRV setpoint of 1110 psig; (2) modify TS 4.6.E, and its associated Bases, to increase the SRV setpoint tolerance to 3%; and (3) modify TSs 3.5.D, 3.6.E and 4.5.D, and their associated Bases, to allow for two SRVs (or automatic depressurization system (ADS) valves) to be inoperable during continuous power operation.

In addition, the amendment clarifies terminology, corrects typographical errors, removes a surveillance requirement which should have been deleted as part of Amendment No. 130, and deletes a duplicate TS. Specifically, the requested changes; (1) Modify TS 1.2.1, and the Bases sections for TS 3.6.E and 4.6.E, to clarify terminology; (2) modify TS 3.5.D.2, and the Bases sections for TSs 1.2 and 2.2, to correct typographical errors; (3) modify TS 4.2.B, Table 4.2-2, to correct an error made in Amendment No. 130 that failed to delete the requirement to perform logic functional testing on the ADS bellows pressure switch; (4) modify TS 4.5.D.1.b, to move the TS to 4.6.E.4, a new section, and clarify the requirements associated with SRV manual actuation testing; (5) modify Bases sections for TSs 3.6.E and 4.6.E, to move the Bases for the SRV manual actuation testing to the applicable sections; and (6) modify TS 4.6.E.4, to delete a duplicate specification pertaining to the annual report of SRV failures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 15, 1990 (55 FR 20228) and on May 25, 1994 (59 FR 27064). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment (EA) related to the action and has determined not to prepare an environmental impact statement. Based upon the EA, the Commission has concluded that the issuance of this amendment will not

have a significant effect on the quality of the human environment.

For further details with respect to the action, see: (1) The application for amendment dated December 20, 1989, as supplemented by letters dated January 16, 1990, January 3, 1992, January 30, 1992, May 5, 1993, and May 26, 1993 and superseded March 2, 1994, (2) Amendment No. 217 to License No. DPR–59, and (3) the Commission's related Safety Evaluation and EA. These letters are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York.

Dated at Rockville, Maryland, this 28th day of September 1994.

For the Nuclear Regulatory Commission.

Michael J. Case,

Acting Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–24598 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS) are described in this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The ACRS is a statutory group established by Congress to review and report on applications for the licensing of nuclear power reactor facilities and on certain other nuclear safety matters. The Committee's reports become a part of the public record. The ACRS meetings are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering procedures. The meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process. ACRS full Committee meetings are conducted in accordance with the Federal Advisory Committee Act.

General Rules Regarding ACRS Meetings

An agenda is published in the **Federal Register** for each full Committee meeting. Practical considerations may dictate some changes to the agenda. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including making provisions of continue discussions of matters not completed on the scheduled day to the next day.

The following requirements shall apply to public participation in ACRS meetings:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. Comments should be limited to matters under consideration by the Committee.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the **Federal Register** notice for the individual meeting in care of the Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555. Comments should be in the possession of the Designated Federal Official no later than five days prior to a meeting to allow time for reproduction, distribution and consideration at the meeting.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the Designated Federal Official prior to the beginning of the meeting and summarize the content of the oral statements for the Designated Federal Official. If possible, the request should be made five days before the meeting, identifying the topics to be discussed and the amount of time needed for presentation, so that appropriate arrangements can be made. The committee will hear oral statements on topics being reviewed at an appropriate time during the meeting scheduled by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting, on the working day prior to the meeting, the Office of the Executive Director of the ACRS (telephone: 301/415–7360, ATTN: the Designated Federal Official specified in the **Federal Register** notice for the meeting) between 7:30 a.m. and 4:15 p.m., Eastern time.

(d) During the ACRS meeting presentations and discussions, questions may be asked by ACRS members, Committee consultants, and the NRC and ACRS staff.

(e) The use of still, motion picture, and television cameras will be permitted both before and after the meeting and during any recess, subject to the condition that the physical installation and presence of such equipment will not interfere with the conduct of the meeting. Approval from the Designated Federal Official will have to be obtained prior to the installation or use of such equipment. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that it is not disruptive. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information that may be in documents, folders, etc., being used during the meeting. Electronic recording will be permitted only during those portions of the meeting that are open to the public.

(f) A transcript is kept for certain open portions of the meeting and will be available in the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555, for use within one week following the meeting. A copy of the certified minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained at the Public Document Room upon payment of appropriate charges.

(g) When ACRS meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at reasonable cost. Accordingly, 25 additional copies of the materials to be used during the meeting should be provided for distribution at such meetings.

Special Provisions When Proprietary Sessions are to be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Designated Federal Official should be informed of such an agreement at least five working days prior to the meeting so that it can be confirmed, and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material

included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting for admittance to the closed session.

Dated September 29, 1994

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 94–24594 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–M

Availability of Draft Application Format and Content Guidance and Review Plan and Acceptance Criteria for Non-Power Reactors

The U.S. Nuclear Regulatory Commission (NRC) is in the process of developing for Non-Power Reactor (NPRs) a "Format and Content for Applications for the Licensing of Non-Power Reactors" (F&C) and "Standard Review Plan and Acceptance Criteria for Applications for the Licensing of Non-Power Reactors" (SRP). The NRC has made available drafts of the document Introduction, Chapter 1, "General Description of the Facility," Chapter 6, "Engineered Safety Features," Chapter 8, "Electrical Power Systems," and Chapter 9, "Auxiliary Systems," of the F&C and SRP documents for comment. Other draft chapters will be made available for comment as they are completed.

Copies of these chapters have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. Single copies of these documents may be requested in writing from Alexander Adams, JR., Senior Project Manager, U.S. Nuclear Regulatory Commission, OWFN MS: 11–B–20, Washington, DC 20555. Comments on these chapters should be sent by February 28, 1995, to the Director, Non-Power Reactors and Decommissioning Project Directorate at the above address.

Dated at Rockville, Maryland this 28th day of September, 1994.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 94–24596 Filed 10–4–94; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application to Act as Representative Payee.

(2) *Form(s) submitted:* AA–5, G–478.

(3) *OMB Number:* 3220–0052.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 20,300.

(9) *Total annual responses:* 20,300.

(10) *Average time per response:* 0.80540 hours.

(11) *Total annual reporting hours:* 16,350.

(12) *Collection description:* Section 12 of the Railroad Retirement Act provides for payment of benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or a minor. The collection obtains information used by the Railroad Retirement Board for selection of a representative payee and verification of an annuitant's capability to manage benefit payments.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 94–24571 Filed 10–4–94; 8:45 am]

BILLING CODE 7905–01–M

POSTAL RATE COMMISSION

[Docket No. A94–14]

Otisco, Minnesota 56077 (Jesse Rieck, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued September 29, 1994.

Before Commissioners:
Edward J. Gleiman, Chairman;
W. H. "Trey" LeBlanc III, Vice-Chairman;
George W. Haley; H. Edward Quick, Jr.;
Wayne A. Schley.

Docket Number: A94–14.

Name of Affected Post Office: Otisco, Minnesota 56077.

Name(s) of Petitioner(s): Jesse Rieck.

Type of Determination: Closing.

Date of Filing of Appeal Papers: September 26, 1994.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by October 11, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

September 26, 1994.—Filing of Appeal letter.

September 29, 1994.—Commission Notice and Order of Filing of Appeal.

October 21, 1994.—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

October 31, 1994.—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].

November 21, 1994.—Postal Service's Answering Brief [*see* 39 CFR 3001.115(c)].

December 6, 1994.—Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].

December 13, 1994.—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].

January 24, 1995.—Expiration of the Commission's 120-day decisional schedule [*see* 39 USC 404(b)(5)].

[FR Doc. 94-24577 Filed 10-4-94; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-34744; File No. SR-Amex-94-3]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Amendments to Rules 575 ("Giving of Proxies Restricted"), 576 ("Transmission of Proxy Material to Customers"), 577 ("Giving Proxies by Member Organization") and 585 ("Transmission of Interim Reports and Other Material")

September 28, 1994.

I. Introduction

On February 22, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend various Exchange rules governing proxies. On May 26, 1994, the Amex submitted to the Commission Amendment No. 1 to the proposed rule change.[3]

Notice of the proposal appeared in the Federal Register on July 8, 1994.[4] No comments were received on the proposal. This order approves the proposed rule change as amended.[5]

II. Description of the Proposal

The Exchange is amending several Amex Rules related to the giving of proxies and the transmission of proxy and other related materials. Specifically, the Exchange is amending Amex Rules: 575 ("Giving of Proxies Restricted"), 576 ("Transmission of Proxy Material to Customers"), 577 ("Giving Proxies by Member Organization"), and 585 ("Transmission of Interim Reports and Other Material").

The amendments to Amex Rules 575, 576, 577 and 585 will permit registered investment advisers who exercise investment discretion pursuant to an advisory contract, and who have been designated in writing by the beneficial owner of the securities, to receive proxy materials, annual reports and other related material, and to vote proxies in lieu of the beneficial owners. The term investment adviser is defined to include a registered broker-dealer (*e.g.*, a member organization).[6]

Currently, Exchange rules prohibit a member organization from voting proxies, on a discretionary basis, on securities held in its custody, unless the securities are beneficially owned by a member organization, or the beneficial owner has failed to provide the member organization with voting instructions and the subject of the vote is non-substantive. Currently, Exchange rules also require member organizations to transmit proxy and related issuer materials, as well as requests for voting instructions, to each beneficial owner of stock held in the member organization's possession or control. Rule 576.60 explicitly requires that proxy material be sent to a beneficial owner even though such owner has instructed the member organization not to do so.[7]

According to the Exchange, a number of member organizations along with the Investment Adviser Committee of the Securities Industry Association ("SIA") informed the Exchange that many of their customers do not want to receive proxy materials, or vote the proxy. These member organizations have indicated that their customers would rather have the professionals represent their interests in receiving and voting proxies because they are better qualified.

In addition, the Exchange is amending Rule 575 to conform that Rule to a comparable New York Stock Exchange ("NYSE") Rule which allows a member organization, that is designated by a named fiduciary as the investment manager of stock held as assets of an ERISA Plan, to vote the proxies on the stock in accordance with its ERISA Plan fiduciary responsibilities.[8]

The Amex believes that it is appropriate to modify these Amex rules to conform to NYSE rules because most Amex member firms doing a public business are dual members of both the NYSE and Amex, and the rules of the two exchanges regarding proxies and

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1994).

[3] See letter from Linda Tarr, Senior Counsel, Amex, to Sandra Sciole, Special Counsel, SEC, dated May 25, 1994. Amendment No. 1 made certain clarifying changes to the proposed rule change.

[4] Securities Exchange Act Release No. 34294 (July 1, 1994), 59 FR 35152 (July 8, 1994).

[5] On September 27, 1994, the Amex submitted a draft Amex Information Circular to members which discusses the substance of the amendments to Amex Rules 575, 576, 577 and 585. This draft circular is being approved as part of the Amex's proposal herein. The Amex Information Circular provides that the written designation of the registered investment adviser: be signed by the beneficial owner of securities; be addressed to the member organization; include the name of the designated investment adviser, and specify that the investment adviser is being designated to receive the proxy and related materials and vote the proxy. It also requires Amex member organizations to assure themselves that the designated investment adviser is registered under the Investment Advisers Act of 1940, and that such adviser exercises investment discretion pursuant to an advisory contract, and maintains records substantiating this information. The Amex Information Circular further specifies that beneficial owners of securities have an unqualified right at any time to rescind designation of the investment adviser to receive materials to vote proxies. The rescission must be in writing and submitted to the member organization. The draft Amex Information Circular also added a statement that member organizations may wish to provide consolidated proxies and related materials to investment advisers designated by beneficial owners to exercise voting discretion.

[6] This portion of the Amex proposal is substantially similar to a proposal recently approved for the NYSE. See Securities Exchange Act Release No. 34596 (August 25, 1994), 59 FR 45050 ("NYSE Approval Order"). Although no comments were received on the Amex proposal, the Commission received five comment letters supporting this change of the NYSE.

[7] See Amex Rule 576.60—Duty to transmit even when requested not to.

[8] This NYSE Rule currently states that no member organization shall give or authorize the giving of a proxy to vote stock registered in its name, or in the name of its nominee, except as required or permitted under the provisions of Rule 452, unless such member organization is the beneficial owner of such stock. Notwithstanding the foregoing, any member organization, designated by a named fiduciary as the investment manager of stock held as assets of an ERISA Plan that expressly grants discretion to the investment manager to manage, acquire, or dispose of any plan asset and which has not expressly reserved the proxy voting right for the named fiduciary, may vote the proxies in accordance with its ERISA Plan fiduciary responsibilities. See NYSE Rule 450, Restriction on Giving of Proxies.

voting have historically been substantially the same.

Amex Rule 575 ("Giving of Proxies Restricted") currently provides that no member organization shall give or authorize the giving of a proxy to vote stock registered in its name, or in the name of its nominee, except as required or permitted under the provisions of Rule 577, unless the member organization is the beneficial owner of the stock.

The Exchange proposes to add two exceptions (paragraphs (1) and (2)) to Rule 575. Paragraph (1) would provide that any member organization designated by a named fiduciary as the investment manager of stock held as assets of an ERISA Plan that expressly grants discretion to the investment manager to manage, acquire, or dispose of any plan asset and which has not expressly reserved the proxy voting right for the named fiduciary may vote the proxies in accordance with its ERISA Plan fiduciary responsibilities. Paragraph (2) would provide that any person registered as an investment adviser under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for the beneficial owner and who has been designated in writing by the beneficial owner ("designated investment adviser") to vote the proxies for stock which is in the possession or control of the member organization, may vote such proxy.

Amex Rule 576 ("Transmission of Proxy Material to Customers") generally provides that, whenever a person soliciting proxies furnishes a member organization copies of all soliciting material for registered holders, and provides assurance that he will reimburse such member organization for all out-of-pocket expenses incurred in connection with such solicitation, such member shall transmit to each beneficial owner of stock which is in its possession or control, the material furnished. The Exchange is amending Rule 576, paragraph (a) to add the requirement that the member organization may also transmit the soliciting material to a designated investment adviser to receive soliciting material in lieu of the beneficial owner.

The Exchange also is amending Rules 576(b) (1) and (2), which deal with what soliciting material the member organization receiving proxy information shall transmit and when such transmission shall occur. As amended, Rule 576(b)(1) provides that the member organization shall transmit, with soliciting material, a request for voting instruction and a statement to the effect that, if such instructions are not received by the tenth day before the meeting, the proxy may be given at discretion by the owner of record of the stock, provided that such statement may be made only when the proxy soliciting material is transmitted to the beneficial owner of the stock or to the beneficial owner's designated investment adviser at least fifteen days before the meeting. As amended, Rule 576(b)(1) also provides that when the proxy soliciting material is transmitted to the beneficial owner of the stock or to the beneficial owner's designated investment adviser twenty-five days or more before the meeting, the statement accompanying such material shall be to the effect that the proxy may be given fifteen days before the meeting at the discretion of the owner of record of the stock.

Rule 576(b)(2), as amended, provides that, instead of the material submitted under Rule 576(b)(1), the member organization may transmit with the soliciting material a signed proxy indicating the number of shares held for the beneficial owner and bearing a symbol identifying the proxy records of such member organization, and a letter informing the beneficial owner or the beneficial owner's designated investment adviser of the necessity for completing the proxy form and forwarding it to the person soliciting proxies in order that the shares may be represented at the meeting.

The Exchange also is modifying Commentaries .10 and .60 to Rule 576. Commentary .10 ("Annual reports to be transmitted") is being amended to provide that annual reports shall be transmitted to beneficial owners or to beneficial owners' designated investment advisers under the same conditions as those applying to proxy soliciting material under Rule 567 even through it is not proxy soliciting material under the proxy rules of the Commission. Commentary .60 ("Duty to transmit even when requested not to") currently provides that proxy material must be sent to a beneficial owner even through such owner has instructed the member organization not to do so. The Exchange is qualifying this provision to permit the beneficial owner to instruct the member organization in writing to send such material to the beneficial owner's designated investment adviser.

The Exchange also is adding provisions for a beneficial owner's designated investment adviser to Rule 577 ("Giving of Proxies by member Organization, Voting Procedure Without Instructions"). As amended, the Rule provides that a member organization which has transmitted proxy soliciting material to the beneficial owner of stock or to the beneficial owner's designated investment adviser to receive soliciting material in lieu of the beneficial owner and solicited voting instructions in accordance with the provisions of Rule 576, and who has not received instructions from the beneficial owner or from the beneficial owner's designated investment adviser by the date specified in the statement accompanying such material, may give or authorize the giving of a proxy to vote such stock, provided certain enumerated conditions are met.

The Exchange is making two changes to Rule 577, Commentary .10 ("Giving a Proxy to Vote Stock"). As amended, paragraphs (1) and (2) state that a member organization may give a proxy to vote stock provided that: (1) it has transmitted proxy soliciting material to the beneficial owner of stock or to the beneficial owner's designated investment adviser in accordance with Rule 576, and (2) it has not received voting instructions from the beneficial owner or from the beneficial owner's designated investment adviser by the date specified in the statement accompanying such material. The remaining condition in paragraph (3) is unchanged.

Rule 585—Transmission of Interim Reports and Other Material—currently provides that a member organization, upon request by a company, and when furnished with copies of interim reports of earnings or other material sent to stockholders, and satisfactory assurance that it will be reimbursed by such company for out-of-pocket expenses, shall transmit such reports of material to each beneficial owner of stock of such company held by the member organization and registered in a name other than the name of the beneficial owner. The Exchange is qualifying Rule 585 by adding the following to the end of the Rule: "unless the beneficial owner has instructed the member organization in writing to transmit such reports or material to a designated investment adviser registered under the Investment Advisers Act of 1940 who exercises investment discretion pursuant to an advisory contract for such beneficial owner."

III. Discussion and Conclusion

The Commission finds the proposed rule change to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b)(5) of the Act. Section 6(b)(5) of the Act provides, *inter alia*, that the rules of an exchange be designed to remove impediments to and

perfect the mechanism of a free and open market.

The Commission believes that permitting investors to designate an investment adviser to receive proxy and related issuer materials and vote their proxies removes impediments to a free and open market. As noted by the Exchange, investors have been requesting that investment advisers be authorized to receive issuer materials and vote proxies for the investor. Investors choosing an investment adviser arrangement may believe that they do not need to receive issuer information since the investment adviser and not the investor is making investment decisions on their behalf. The Commission acknowledges that investors might view the receipt of issuers materials and the ability to vote proxies as part of the investment adviser's obligations to manage customer accounts. Furthermore, the Commission acknowledges that some investors, in choosing to utilize the services of an investment adviser, are implying that they do not have the knowledge or inclination to review complicated issuer or proxy materials or to vote proxies. These investors, in particular, may be frustrated by being inundated with unwanted issuer materials.

The Commission also believes that the proposed rule change will permit the investment adviser to make more expedient, informed investment decisions, thereby facilitating securities transactions in accordance with the Act. For these reasons, the Commission believes that the proposed rule change appropriately gives investors the freedom to choose whether to receive proxy and related issuer materials and vote the proxies or to designate their investment adviser to perform these functions on their behalf.

Section 6(b)(5) of the Act also provides that the rules of an exchange should protect investors and the public interest. The Commission believes that the proposed rule change is consistent with the public interest and the protection of investors. The Commission notes that the rule change continues to permit investors who wish to receive and vote proxies and receive other issuer materials to do so. The rule change affords beneficial owners the choice to delegate this authority when the beneficial owner has already granted discretion in his investment account to an investment adviser. Despite the flexibility provided by the rule, investors will continue to have the authority to rescind their designation of an investment adviser at any time. We note that prior to the effective date of such designation, member organizations must provide beneficial owners written notice of their right to rescind the designation.

The Commission also believes that amending Rule 575 to allow a member organization which is the investment manager for an ERISA Plan is consistent with the policies embodied in Section 6(b)(5) of the Act because the amendment would conform Amex Rule 575 to NYSE Rule 450 which permits a member organization, that is designated by a named fiduciary as the investment manager of stock held as assets of an ERISA Plan, to vote the proxies in accordance with the its ERISA Plan fiduciary responsibilities. The amendment to Rule 575 should facilitate transactions in securities between Amex member firms that are dual members of the NYSE and Amex by adopting consistent proxy rules. The Commission notes that in voting proxies as a plan fiduciary, an investment manager must consider those factors which would affect the value of the plan's investment and is prohibited from subordinating the interests of participants and beneficiaries in their retirement income to unrelated objectives. In addition, the Commission believes that the Exchange's amendment should prevent potential conflicts between the Exchange rules and ERISA guidelines.[9]

Finally, the Commission believes the proposed rule change is consistent with Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission believes the proposed rule change should serve to eliminate unnecessary burdens on competition in recognition that advisers not subject to Amex rules already are able to vote proxies for their clients.

It is therefore ordered, pursuant to Section 19(b)(2)[10] of the Act, that the proposed rule change (SR–Amex–94–3) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–24612 Filed 10–4–94; 8:45 a.m.]

BILLING CODE 8010–01–M

[9] In an interpretive letter dated February 23, 1988, the Pension and Welfare Benefits Administration ("PWBA") of the United States Department of Labor ("Department") set forth its view regarding proxy voting by fiduciaries of employee retirement plans subject to ERISA. In the interpretive letter, the Department stated that the fiduciary act of managing plan assets which are shares of corporate stock would include the voting of proxies appurtenant to those shares of stock. The Department stated its position that, with respect to the special issues presented by the facts of the particular inquiry set forth in the request for interpretation (*i.e.*, a proposal to change the state of incorporation of a corporation in which a plan owned shares, and a proposal to rescind "poison pill" arrangements), the decision as to how proxies should be voted are fiduciary acts of plan asset management. The Department concluded that, to the extent that the plan permits a named fiduciary to appoint an investment manager to manage, acquire and dispose of plan assets, and the named fiduciary has not expressly reserved the voting rights to itself, there would be an ERISA violation if, during the duration of such delegation, any person other than the investment manager were to make the decision how to vote any proxy with respect to shares owned by the plan. See Labor Department Letter on Proxy Voting By Plan Fiduciaries, dated February 23, 1988, BNA Pension Reporter, February 29, 1988, Vol. 15, p. 391.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–34743; File No. SR–NASD–94–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Amendment of Certain Current Terms and the Adoption of New Terms Relating to the NASDAQ System That Are Used in Schedule D to the NASD By-Laws and Other Parts of the NASD's Rules and Regulations That Are Contained in the NASD Manual

September 28, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 20, 1994,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed rule change. Proposed new language is italicized and proposed deletions are bracketed.

SCHEDULE D TO THE NASD BY-LAWS

PART I

DEFINITIONS

* * * * *

(17) ["NASDAQ] "*"Nasdaq* market maker" means a dealer that, with

[1] The proposed rule change was initially submitted on August 23, 1994, and was amended on September 20, 1994.

respect to a security, holds itself out (by entering quotations in [the NASDAQ System] The Nasdaq Stock Market) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.

(18) "Nasdaq National Market" or "NNM" is a distinct tier of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq National Market security.

[18] *(19)* [NASDAQ National Market System security" or "NASDAQ NMS security"] *"Nasdaq National Market security" or "NNM security"* means any authorized security *in the Nasdaq National Market* with (i) *satisfies all applicable requirements of Part II and* substantially meets the criteria set forth in Part III [Section 2 and 5] of this Schedule D and is subject therefore to a transaction reporting plan approved by *the* Securities and Exchange Commission; (ii) is a right to purchase such security; or (iii) is a warrant to subscribe to such security, and has been designated therefore as a national market system security pursuant to SEC Rule 11Aa2–1.

(20)"Nasdaq SmallCap Market security" or "SCM security" means any authorized security in The Nasdaq SmallCap Market which (i) satisfies all applicable requirements of Part II of this Schedule D other than a Nasdaq National Market security; (ii) is a right to purchase such security; or (iii) is a warrant to subscribe to such security.

[(20)] *(21)* "Net Tangible Assets" shall mean total assets (including the value of patents, copyrights and trade marks but excluding the value of goodwill) less total liabilities.

[(21)] *(22)* "Normal unit of trading" means 100 shares of a security unless, with respect to particular security, the Association determines that a normal unit of trading shall constitute other than 100 shares. If a normal unit of trading is other than 100 shares, a special identifier shall be appended to the issuer's [NASDAQ] *Nasdaq* symbol.

Sections (22)–(25) are renumbered (23)–(26) respectively.

(27) "The Nasdaq SmallCap Market" or "SCM" is a distinct tier of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq SmallCap Market security.

[19] *(28)* ["NASDAQ System" means the electronic inter-dealer quotation system] *"The Nasdaq Stock Market" or "Nasdaq" is an electronic securities market comprised of competing market makers whose trading is supported by a communications network linking them to quotation dissemination, trade reporting, and order execution systems. This market also provides specialized automation services for screen-based negotiations of transactions, on-line comparison of transactions, and a range of informational services tailored to the needs of the securities industry, investors and issuers. The Nasdaq Stock Market consists of two distinct market tiers: the "Nasdaq National Market" and "The Nasdaq SmallCap Market". The Nasdaq Stock Market is* operated by [NASDAQ, Inc.] *The Nasdaq Stock Market, Inc.,* a *wholly-owned* subsidiary of the Association.

In addition to the changes listed above, the proposed rule change would insert the proposed new terms, where applicable, throughout the NASD Manual. The proposed rule change also would apply to all rule filings that are approved or pending prior to the Commission's approval of the proposed rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to amend certain current terms and adopt new terms related to the NASDAQ System that more appropriately describe the current technological facilities and services provided by this national securities market throughout Schedule D to the NASD By-Laws) ("Schedule D") and other parts of the NASD's rules and regulations in the NASD Manual. The NASD believes that the proposed new terms will indicate more clearly the current functionality of the NASDAQ System as a market for securities with quotation dissemination, trade reporting, and other execution capability, as well as other specialized automation services for screen-based negotiations of transactions, on-line comparison of transactions, and a range of informational services tailored to the needs of the securities industry, investors and issues. The proposed new terms would also clarify that the NASDAQ System is composed of two distinct market tiers, each with different inclusion criteria that are set forth in different parts of Schedule D. Finally, the proposed rule change would make clear that The Nasdaq Stock Market is operated by The Nasdaq Stock Market, Inc., a wholly-owned subsidiary of the Association.

Section 17 to Part I of Schedule D would be amended to replace the term "NASDAQ" with the term "Nasdaq" and to replace the phrase "the NASDAQ System" with the term "The Nasdaq Stock Market".

The proposed rule change would add a new Section 18 to Part I of Schedule D to define the "Nasdaq National Market" or "NNM" to mean a distinct tier of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq National Market security

Part I, Section 18 of Schedule D would be renumbered as Section 19 and amended to replace the terms "NASDAQ National Market System security" and "NASDAQ NMS security" with the terms "Nasdaq National Market security" and "NNM security", and to clarify a current NASD requirement that such securities must satisfy "all applicable requirements of Part II" of Schedule D as well as substantially meet the criteria set forth Part III of Schedule D. The text of the proposed rule language to new Section 19 is based on that in Section 1 of Part II and Section 2 of Part III to Schedule D which set forth the qualification requirements and designation criteria applicable to Nasdaq SmallCap Market and Nasdaq National Market securities.

The proposed rule change would add a new Section 20 to Part I of Schedule D to define the term "Nasdaq SmallCap Market security" or "SCM security" to mean any security which (i) satisfies all applicable requirements of Part II of Schedule D other than a Nasdaq National Market security; (ii) is a right to purchase such security; or (iii) is a warrant to subscribe to such security.

The current section (20) to Part I of Schedule D would be renumbered as Section (21). The current section (21) to Part I of Schedule D would be renumbered as Section (22) and the term "NASDAQ" contained therein would be replaced with the term "Nasdaq". Current section (22) to (25) to Part I of Schedule D would be renumbered as Sections (23) to (26,) respectively.

The proposed rule change would add a new Section 27 to Part I of Schedule D to define "The Nasdaq SmallCap Market" or "SCM" to be a distinct tier

of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq SmallCap Market security.

The current Section 19 to Part I of Schedule D would be renumbered as Section 28 and amended by replacing the current term "NASDAQ System" with the term "The Nasdaq Stock Market" or "Nasdaq". Proposed Section 28 would define The Nasdaq Stock Market as an electronic securities market comprised of competing market makers whose trading is supported by a communications network linking them to quotation dissemination, trade reporting, and order execution systems. Proposed Section 28 would state that The Nasdaq Stock Market also provides specialized automation services for screen based negotiations of transactions, on-line comparison of transactions, and a range of informational services tailored to the needs of the securities industry, investors and issuers.

Proposed Section 28 would also clarify that The Nasdaq Stock Market is comprised of two distinct market tiers of the current NASDAQ System. The first tier of The Nasdaq Stock Market would be "The Nasdaq SmallCap Market" or "SCM". The second tier of The Nasdaq Stock Market would be the "Nasdaq National Market" or "NNM".

On June 30, 1993, the NASD's corporate subsidiaries that operated and serviced the NASDAQ System, i.e. Nasdaq Inc. and NASD Market Services, Inc., were merged into a single corporation renamed "The Nasdaq Stock Market, Inc.".[2] To reflect this corporate restructuring, proposed Section 28 would clarify that The Nasdaq Stock Market is operated by The Nasdaq Stock Market, Inc., a wholly-owned subsidiary of the Association.

The proposed rule change would insert the proposed new terms, where applicable, throughout Schedule D and other parts of the NASD's rules and regulations, including the Schedules to the By-Laws; Rules of Fair Practice; SOES Rules; ACT Rules; FIPS Rules; Nasdaq International Services; Code of Procedure and Uniform Practice Code.

The proposed rule change would apply to all rule filings of the Association or its subsidiary, The Nasdaq Stock Market, Inc., that are approved prior to or are pending on the date of the Commission's approval of the proposed rule change. Moreover, the numbering of the definition sections are proposed to be amended to reflect any amendment to the definition sections under Part I of Schedule D adopted prior to the approval of the proposed rule changes.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act in that the proposed rule change is designed to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the proposed rule change would amend certain current terms and adopt new terms relating to the NASDAQ System in order to more appropriately describe the current technological facilities and services provided by this national securities market. The NASD believes that the proposed new terms will indicate more clearly the current functionality of the NASDAQ System as a market for securities with quotation dissemination, trade reporting, and order execution capability, as well as other specialized automation services for screen-based negotiations of transactions, on-line comparison of transactions, and a range of informational services tailored to the needs of the securities industry, investors and issuers. The proposed new terms would also clarify that The Nasdaq Stock Market is composed of two distinct market tiers, each with different inclusion criteria in different parts of the rules. Finally, the proposed rule change would make clear that The Nasdaq Stock Market is operated by The Nasdaq Stock Market, Inc., a wholly-owned subsidiary of the Association.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–94–48 and should be submitted by October 26, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–24613 Filed 10–4–94; 8:45 am]

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[Release No. 34–34742; File No. SR–Phlx–91–46

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approved to Amendment No. 1 to a Proposed Rule Change Relating to Firm Quote Responsibilities for Customer and Broker-Dealer Orders

September 28, 1994.

On December 9, 1991, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4

[2] See, Item 16, Exhibit E to The Nasdaq Stock Market, Inc.—Annual Amendment to Registration as a Securities Information Processor ("SIP") attached to the NASD's March 31, 1994 letter from Robert E. Aber, Vice President and General Counsel, The Nasdaq Stock Market, Inc. to Jonathan G. Katz, Secretary, SEC.

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1982).

thereunder,[2] a proposed rule change to amend the Phlx's Options Floor Procedure Advice ("OFPA") F–7 relating to firm quotes for customer and broker-dealer orders. On September 27, 1994, the Phlx filed Amendment No. 1 ("Amendment No. 1") to the proposal to eliminate a reference to public customers in OFPA F–7 and to replace a reference to its Ten-up rule ("ten-up" rule) with the actual Options Floor Procedure Advice section ("OFPA A–11") governing minimum volume guarantees.[3]

Notice of the proposed rule change was published for comment in Securities Exchange Act Release No. 30134 (Dec. 31, 1991), 57 FR 730 (Jan. 8, 1992). No comments were received on the proposal. This order approves the proposal, as amended.

I. Description of the Proposal

OFPA F–7 currently states that bid and offer prices shall be general ones and shall not be specified for acceptance by particular members. The proposed amendment modifies OFPA F–7 to reflect the development of different execution guarantees depending on the status of the order to be executed. Under Phlx Rule 1033(a), the current "ten-up" rule, public customer orders are afforded a ten-up guarantee on the Exchange, receiving an execution of up to ten contracts at the best market price regardless of whether size was quoted. Broker-dealer orders do not qualify for the ten-up guarantee. Accordingly, the stated purpose of the proposed rule change is to permit floor traders to provide greater bid and/or offer sizes (*i.e.*, more than 10 contract guarantee) to facilitate customer orders while not being under such obligation with respect to broker-dealer orders, unless specified. However, the proposed amendment to OFPA F–7 requires that quote sizes be maintained equally for all orders of the same account type. Therefore, if a specialist elects to give a size of twenty-up to one-broker-dealer, he must honor the size of twenty-up for all broker-dealer orders.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

In approving the Phlx's "ten-up" in rule in June 1987,[5] the Commission found that it was designed to benefit public customers by increasing the size of orders for which they can be assured executions to a minimum depth of ten contracts at the best bid or offer as quoted by a specialist or Registered Options Trader ("ROT"). Although the Commission carefully scrutinizes discriminatory order execution practices, limiting the "ten-up" rule for public customers furthers the purposes of the Act. The intent of the "ten-up" rule is to encourage options specialists and ROTs to become more competitive in making markets, thereby contributing to a more free and open market. Because the "ten-up" rule was designed by the options exchanges for the benefit of public customers, however, the incentive for market makers and ROTs to benefit public customers through the "ten-up" rule is contingent on the assurance that these market makers volume guarantees will not be exhausted by competitors to the detriment of public customers.

The Commission believes that allowing floor traders to provide customers with quote sizes greater than the minimum "ten-up" guarantee, while not being obligated with respect to broker-dealer orders, is consistent with the Act in that it will facilitate customer orders. The Commission also believes the rule change will encourage market participants to make larger markets, resulting in tighter spreads, which, in turn, should contribute to more liquid options markets. Furthermore, allowing floor traders to increase the quote sizes available to customer orders furthers the underlying purposes of the "ten-up" rule. The proposal also requires that order sizes be maintained equally for all orders of the same account type, as defined by OFPA B–6. Accordingly, if a specialist elects to give a size of twenty-up to one broker-dealer, he must honor the size of twenty-up for all broker-dealer orders. In the absence of a stated size to any bid or offer, the size shall be deemed to be for one contract only, subject to the minimum volume guarantees for public customers orders, as established in Rule 1033(a). The Commission believes this requirement will help to ensure the integrity and fairness of the Phlx's markets in that it will help prevent order discrimination within account types.

The Commission finds good cause for approving Amendment No. 1 to the Exchange's proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 eliminates the term "public customers" from OFPA B–7, which was proposed in the original filing. Because existing Phlx OFPA B–6 already distinguishes between account types, of which "public customers" is one type, the Commission does not believe the proposal's elimination of the term raises any new or substantive issues. Moreover, the minimum volume guarantees afforded by Rule 1033(a) are only available to public customer orders and the elimination of the term from OFPA B–7 does not affect the ten-up guarantee. Amendment No. 1 also replaces a reference to the Phlx "ten-up" rule with a citation to OFPA A–11, which is the floor advice currently governing minimum volume guarantees. The Commission believes this change is non-substantive and does not affect the operation or implementation of either Rule 1033(a), OFPA A–11, or the filing.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1994.

[2] 17 CFR 240.19b–4 (1991).

[3] *See* Letter from Gerald D. O'Connell, First Vice President, Phlx, to Michael Walinskas, Derivative Products Regulation, SEC, dated September 27, 1994.

[4] 15 U.S.C. 78f(b)(5) (1982)

[5] See Securities Exchange Act Release No. 24580 (June 11, 1987), 52 FR 23120.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR-Phlx-91-46) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-24614 Filed 10-4-94; 8:45 am]

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[Rel. No. IC-20592; File No. 812-9006]

Teachers Insurance and Annuity Association of America, et al.

September 28, 1994.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Teachers Insurance and Annuity Association of America ("TIAA"), TIAA Separate Account VA-1 (the "Separate Account"), and Teachers Personal Investors Services, Inc. ("TPIS").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 12(b), 26(a)(2)(C) and 27 (c)(2) of the 1940 Act, and Rule 12b-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under certain variable annuity contracts.

FILING DATE: An application was filed on May 18, 1994, and amended on September 28, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 24, 1994, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, 730 Third Avenue, New York, NY 10007-3206.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Senior Attorney, at (202) 942-0682, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. TIAA is a nonprofit corporation regulated under New York law as an insurance company. TIAA's purpose is to provide retirement benefits to teachers and other employees of nonprofit-making colleges, universities, and other institutions engaged in education or research activities. All of TIAA's stock is held by TIAA Board of Overseers, a New York not-for-profit membership corporation. TIAA is a companion organization of the College Retirement Equities Fund, a New York nonprofit corporation registered as a management investment company that issues variable annuity certificates.

2. The Separate Account was established by TIAA under the laws of New York to fund certain variable annuity contracts. The Separate Account is registered as a management investment company on Form N-3 under the 1940 Act. The Separate Account currently consists of one investment portfolio, the Stock Index Account. Other investment portfolios may be made available in the future.

3. TPIS is the principal underwriter of the variable component of a combination fixed and variable individual deferred annuity contract ("Contract") funded by the Separate Account. TPIS is a wholly-owned subsidiary of TIAA VA Holdings, Inc., which is, in turn, a wholly-owned subsidiary of TIAA. TPIS is registering as a broker-dealer under the Securities Exchange Act of 1934. The Contract will be offered on a continuous basis by registered representatives of TPIS.

4. The Contracts are designed to provide retirement or long-term benefits to eligible employees, spouses or domestic partners. The Contracts require a minimum initial premium of $2000 except if payments are collected by payroll deduction by a Contractowner's employer. Additional premium payments of at least $100 may be paid at any time during the accumulation period. No sales charges are deducted from premium payments.

5. Premium taxes are deducted by TIAA from premium payments prior to allocation to the Separate Account in states that impose a premium tax charge when a premium is paid. In states that impose a premium tax later, TIAA deducts the appropriate amount when the tax is incurred.

6. When additional portfolios are added to the Separate Account, Contractowners will be allowed to transfer among available portfolios during the accumulation period. TIAA reserves the right to limit the number of transfers among portfolios to once in any 90-day period. Currently, no charge is made for transfers.

7. TIAA imposes a daily administrative expense charge at an effective annual rate of 0.20% of the net assets of the Separate Account. Applicants represent that this charge is deducted in reliance on Rule 26a-1 under the 1940 Act and is not greater than the expected cost of the administrative services to be provided over the life of the Contract. TIAA does not expect or intend to earn a surplus from the administrative expense charge. The rate of the charge is guaranteed not to increase for the duration of the Contracts and is applicable only during the period from the date of issue of the Contract until the end of the accumulation period.

8. A daily investment advisory fee is deducted from the net assets of the Separate Account and paid to Teachers Advisors, Inc. ("Advisors"), a wholly-owned subsidiary of TIAA VA Holdings, Inc. Advisors will be registered as an investment adviser under the Investment Advisers Act of 1940. The investment advisory fee will be 0.30% of the average daily net assets of the Separate Account. Advisors has agreed to waive a portion of the advisory fee so that the current effective annual rate will be 0.10% of the average daily net assets of the Separate Account.

9. TIAA deducts a Mortality and Expense Risk Charge that is equal, on an annual basis, to 0.25% of the average daily net asset value of the Separate Account: approximately .06% for mortality risks and .19% for expense risks. TIAA reserves the right to increase this charge to an effective annual rate of 1.00% of the net assets of each portfolio of the Separate Account (approximately .20% for mortality risks and .80% for expense risks) and guarantees that this charge will never exceed 1.00%.

10. The mortality risks assumed by TIAA arise from its contractual obligation to make annuity payment in accordance with the provisions of the Contracts regardless of how long all annuitants or any individual annuitant lives. In addition, TIAA assumes the risk that the total premiums paid under

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[6] 15 U.S.C. 78s(b)(2) (1982).

[2] 17 C.FR 200.30-3(a)(12) (1993).

a Contract less any cash withdrawals exceed the account value of a Contract when a death benefit becomes payable. The death benefit under the Contract is the greater of (a) account value or (b) total premiums paid less cash withdrawals.

11. The expense risk assumed by TIAA is that actual expenses involved in administering the Contracts (including Contract maintenance costs, administrative costs, mailing costs, data processing costs, and costs of other services) may exceed the amount recovered from the administrative expense charge.

Applicants' Legal Analysis and Conditions

1. Sections 26(a)(2) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor or underwriter thereof from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

2. Applicants request an order under Section 6(c) exempting the from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the Mortality and Expense Risk Charge from the assets of the Separate Account under the Contracts.

3. Applicants represent that the Mortality and Expense Risk Charge is within the range of industry practice with respect to comparable annuity products. Applicants base this representation on an analysis of publicly available information about similar annuity products, taking into consideration such factors as the current charge levels, existence of charge level guarantees, any death benefit guarantees, guaranteed annuity rates, and other policy options. TIAA represents that it will maintain at its administrative offices a memorandum, available to the Commission, setting forth in detail this analysis.

4. If the Mortality and Expense Risk Charge is insufficient to cover actual costs, the loss will be borne by TIAA. Conversely, if the amount deducted proves more than sufficient, the excess will be a profit to TIAA. TIAA does not expect a profit from this charge during the first years of the Separate Account's operation. To the extent this charge results in a surplus to TIAA, such surplus will be available for use by TIAA for the payment of distribution, sales, and other expenses. Applicants represent that no separate charge for distribution expenses will be imposed upon the assets of the Separate Account unless and until the requirements of Rule 12b–1 under the 1940 Act have been complied with.

5. TIAA represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and Contractowners. The basis for this conclusion is set forth in a memorandum that will be maintained by TIAA at its administrative offices and that will be available to the Commission upon request.

6. TIAA represents that it will have a board of directors, a majority of whom are not interested persons within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

7. Applicants also request an order under Section 6(c) of the 1940 Act exempting them from Section 12(b) of the 1940 Act and Rule 12b–1 thereunder, insofar as this proposed distribution financing arrangement might be deemed to involve the direct or indirect use of assets in the Separate Account for distribution.

8. Section 12(b) of the 1940 Act prohibits a registered investment company from acting as a distributor of securities of which it is the distributor, except through an underwriter. Rule 12b–1 prohibits any such company directly or indirectly from financing distribution of the company's shares except in compliance with the rule's requirements. The rule requires that a company financing distribution of its shares formulate a written plan describing all material aspects of the proposed arrangement and that the plan be approved initially by the company's shareholders, directors, and disinterested directors. The directors must vote annually to continue a plan and the directors must conclude that there is a reasonable likelihood that implementation or continuation of the plan will benefit the company and its shareholders.

9. Applicants expect to finance the expenses of distributing the Contracts through the use of TIAA's general assets, which may be attributable in part to any surplus from the Mortality and Expense Risk Charge. Thus, the proposed distribution financing arrangement might be deemed to involve the direct or indirect use of assets in the Separate Account for distribution. Accordingly, Applicants represent that this aspect of the requested relief is solely "defensive," *i.e.*, to clarify that the current distribution financing arrangement is not subject to Section 12(b) or Rule 12b–1 thereunder. Applicants contend that the requested exemptive relief is not intended to cover the imposition of a separate charge for distribution expenses against the assets in the Separate Account, and acknowledge that any such distribution charge would only be assessed in compliance with Rule 12b–1.

10. Applicants assert that Rule 12b–1 was not intended to apply to managed accounts, and that the rule's provisions are directed only at traditional mutual funds and should not be applied to managed accounts. Applicants further assert that the protections of Rule 12b–1 are not necessary in the case of managed accounts. Applicants state that Commission review under Section 26 and 27 of the 1940 Act of the reasonableness of asset charges of managed accounts, and explicit prospectus disclosure that the asset charge may be used for distribution expenses, provide sufficient protection for Contractowners and obviate the need for a managed account to comply with the requirements of Rule 12b–1.

11. Applicants assert that the application of Rule 12b–1 to managed accounts would produce a burdensome and inequitable treatment of these accounts, would place them at an unfair competitive disadvantage with respect to trust accounts offering similar annuity contracts, and would create an artificial distinction between managed and trust accounts not justified by policy considerations.

Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 12(b), 26(a)(2)(C) and 27 (c)(2) of the 1940 Act, and Rule 12b–1 thereunder, to deduct the Mortality and Expense Risk Charge from the assets of the Separate Account under the Contracts meet the standards in Section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before November 4, 1994. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629

OMB Reviwer: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, 20503

Title: Low Doc Loan Program Customer Satisfaction Survey

Form No.: SBA Form 1921

Frequency: On Occasion

Description of Respondents: Low Doc Loan Participants

Annual Responses: 3,000

Annual Burden: 600.

Dated: September 27, 1994.

Cleo Vebillis,

Acting Deputy Director, Office of Administrative Services.

[FR Doc. 94–24601 Filed 10–4–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2086; Delegation of Authority No. 214]

Delegation of Responsibilities Under the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and Certain Related Acts

By virtue of the authority vested in me as Secretary of State, including the authority of section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by section 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103–236) ("the Authorization Act"), and the authority of the Presidential Memorandum of July 26, 1994, I hereby delegate the following functions as indicated.

Section 1. Functions Delegated to the Under Secretary for Political Affairs

The functions vested in the Secretary of State by sections 523, 528, 536(a), and 574 of the Authorization Act.

Section 2. Functions Delegated to the Under Secretary for International Security Affairs

The functions vested in the Secretary of State by sections 563(b) and 821(d) of the Authorization Act; and the functions of sections 39A (22 U.S.C. 2779a) and 73A (22 U.S.C. 2797b–1) of the Arms Export Control Act, as added by sections 733 and 735(d), respectively, of the Authorization Act and vested in the Secretary by the Presidential Memorandum of July 26, 1994.

Section 3. Function Delegated to the Under Secretary for Economic, Business and Agricultural Affairs

The function of section 527(e) (22 U.S.C. 2370a) of the Authorization Act, vested in the Secretary of State by Presidential Memorandum dated July 26, 1994, and the function vested in the Secretary of State by section 527(f) (22 U.S.C. 2370a) of the Authorization Act.

Section 4. Functions Delegated to the Under Secretary for Management

This confirms that the functions vested in the Secretary of State by the following provisions are delegated to the Under Secretary for Management by virtue of Delegation of Authority No. 198, dated September 16, 1992: Sections 121(d), 128, 140(f), 178(c), 191, 193 (22 U.S.C. 2695a), 565 (b) and (c) (22 U.S.C. 2679c), 573(c), and 906(d) of the Authorization Act; Section 52 of the State Department Basic Authorities Act (22 U.S.C. 2724), added by section 136 of the Authorization Act; and Section 3721(b)(2) of title 31 of the United States Code, as amended by section 172(a) of the Authorization Act.

Section 5. Functions Delegated to the Under Secretary for Global Affairs

The function vested in the Secretary of State by section 142(b) of the Authorization Act.

Section 6. Functions Delegated to the Assistant Secretary for Consular Affairs

The functions vested in the Secretary of State by Sections 127(a) (22 U.S.C. 211a) and (b) of the Authorization Act.

Section 7. Functions Delegated to the Assistant Secretary for Democracy, Human Rights and Labor

The functions vested in the Secretary of State by section 5(d)(1) of the Arms Export Control Act (22 U.S.C. 2755(d)(1), as amended by section 162(f) of the Authorization Act.

Section 8. Functions Delegated to the Assistant Secretary for Diplomatic Security

The functions vested in the Secretary of State by sections 103(a)(2) (22 U.S.C. 4802(a)(2)) and 402(a)(2) (22 U.S.C. 4852(a)(2)) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended by section 162(g) of the Authorization Act; and the functions vested in the Secretary of State by section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314).

Section 9. Functions Delegated to the Assistant Secretary for Economic and Business Affairs

The functions vested in the Secretary of State by section 35 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2707), as amended by section 162(k) of the Authorization Act.

Section 10. Functions Delegated to the Assistant Secretary for International Organization Affairs

The functions vested in the Secretary of State by section 4(b) and (c) of the United Nations Participation Act of 1945 (22 U.S.C. 287b), as added by section 406 of the Authorization Act; and the functions of sections 102(g), 407(a), 409 (b) and (d), and 431(b) of the Authorization Act, vested in the Secretary of State by Presidential Memorandum dated July 26, 1994.

Section 11. Functions Delegated to the Assistant Secretary for Political-Military Affairs

The functions vested in the Secretary of State by section 161(f)(2) of the Authorization Act.

Section 12. Functions Delegated to the Assistant Secretary for Population, Refugees and Migration

The functions vested in the Secretary of State by section 411(b) of the Immigration and Nationality Act (8 U.S.C. 1521(b)), as amended by section 162(n) of the Authorization Act.

Section 13. Functions Delegated to the Legal Adviser

The function vested in the Secretary of State by section 112a(b) of title 1 of the United States Code, as amended by section 138 of the Authorization Act.

Section 14. Functions Delegated to the Director of the Office of Foreign Missions

The functions vested in the Secretary of State by Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 *et seq*), as amended by section 162(o) of the Authorization Act, except those under sections 203(4), 204(b)(5), 204(f), 209, 209A, and 214.

Section 15. Functions Delegated to the Chief of Protocol

The functions vested in the Secretary of State by section 107 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4806), as amended by section 162(g) of the Authorization Act.

Section 16. Functions Reserved to the Secretary of State

The functions of sections 401(b), 409(a), 514(b), 527(g), 528, 532(a), and 583(b) (1) and (6) of the Authorization Act, vested in the Secretary by Presidential Memorandum dated July 26, 1994; and the functions vested in the Secretary of State by section 203(4) of the State Department Basic Authorities Act of 1956.

Section 17. General Provisions

a. Notwithstanding this delegation of authority, the Secretary of State and the Deputy Secretary of State may exercise any function delegated or reserved by this delegation of authority. In addition, an Under Secretary of State may exercise any function delegated by this delegation of authority to an official below the rank of Under Secretary.

b. Any officer to whom functions are delegated by this delegation of authority may, to the extent consistent with law.

(1) redelegate such functions and authorize their successive redelegation; and

(2) promulgate such rules and regulations as may be necessary to carry out such functions.

c. Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation, or procedure as amended from time to time.

Dated: September 20, 1994.

Warren Christopher,

Secretary of State.

[FR Doc. 94–24572 Filed 10–4–94; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Subject: Provision of Aviation Insurance Coverage for Commercial Air Carrier Service; Secretarial Determination

September 29, 1994.

By virtue of the authority delegated to me by Presidential Determination No. 94–39, issued July 26, 1994, to make determinations, in consultation with the Secretary of State, under the authority set forth in 49 U.S.C. 44302(b) and 44306(b), I hereby:

(1) determine, on behalf of the President and in consultation with the Secretary of State, that continuation of authorized humanitarian relief air services to Haiti is necessary to carry out the foreign policy of the United States.

(2) approve, on behalf of the President and in consultation with the Secretary of State, the provision by the Department of Transportation of insurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided of Title 49 U.S.C. 44301–44310, whenever I have determined that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States.

Pursuant to 49 U.S.C. 44306(b), this Determination is effective for sixty days.

This Determination shall be brought to the attention of all air carriers within the meaning of 49 U.S.C. 40102(a)(2) and published in the **Federal Register**.

Federico Peña,

Secretary of Department of Transportation.

[FR Doc. 94–24592 Filed 10–4–94; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement: Randolph County, WV

AGENCY: Federal Highway Administration (FHWA), Dot.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Randolph County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Billy R. Higginbotham, Division Administrator, Federal Highway Administration, 550 Eagan Street, suite 300, Charleston, West Virginia 25301, Telephone: (304) 347–5929.

Ben L. Hark, Environmental Section Chief, Roadway Design Division, West Virginia Department of Transportation, 1900 Kanawha Boulevard East, building 5, room A–830, Capitol Complex, Charleston, West Virginia 25305–0430, Telephone: (304) 558–3236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the West Virginia Department of Highways (WVDOH), will prepare an Environmental Impact Statement (EIS) for the construction of the Elkins Bypass in Randolph County. The proposed project limits extend from U.S. Route 33 in the vicinity of Aggregates Eastward to the vicinity of the four-lane section of U.S. Route 33 near Canfield (approximate project length, 9.1730 kilometers or 5.7 miles). The proposed highway project is considered necessary to adequately provide for a safe and efficient transportation system to serve the existing and future transportation needs of the area and to alleviate traffic congestion within the city of Elkins.

Alternatives under consideration will include, but are not limited to (1) taking no action, (2) where possible, widening the existing two-lane highway to four-lanes, and (3) constructing a four-lane, partially controlled access highway on new location. Additional alternatives may be evaluated based upon the results of the preliminary environmental and engineering studies and the public and agency involvement process. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed, or are known to have, interest in this proposal. A scoping meeting was scheduled for September 15, 1994, at the West Virginia

Department of Transportation, Division of Highways Office in Charleston, West Virginia. Public meetings and a public hearing will be held. Public notice will be given of the times and places for the meetings and hearing. The Draft Environmental Impact Statement will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issue identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on: September 27, 1994.

Billy R. Higginbotham,

Division Administrator, Charleston, West Virginia.

[FR Doc. 94–24573 Filed 10–4–94; 8:45 am]

BILLING CODE 4910–22–M

Corrections

Federal Register
Vol. 59, No. 192
Wednesday, October 5, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Docket No. FV94-945-2FR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Irish Potatoes; Modification of Minimum Size Requirements

Correction

In rule document 94-22612 beginning on page 46721, in the issue of Monday, September 12, 1994, make the following correction:

§ 945.341 [Corrected]

On page 46723, in the first column, in amendatory instruction 2 to § 945.341, in the second line, "paragraph (1)" should read "paragraph (i)".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Three Purchase Units, Florida and Washington

Correction

In notice document 94-21276 beginning on page 44405, in the issue of Monday, August 29, 1994, make the following corrections:

On page 44406, in the second column, under the heading "**Franklin and Liberty Counties, FL., Tallahassee Meridian**", in the 12th paragraph, in the 1st line, "T. 5 S., R. 5 W.;" should read "T. 5 S., R. 6 W.;".

On the same page, in the third column, in the 14th paragraph, in the fourth line, "21, 22, 27 and 38;" should read "21, 22, 27 and 28;".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 11

[Docket No. 92N-0251]

Electronic Signatures; Electronic Records

Correction

In proposed rule document 94-21468 beginning on page 45160, in the issue of Wednesday, August 31, 1994, make the following correction:

On page 45160, in the first column, under **ADDRESSES**, in the 12th line, "(92NO251@A1.FDAOC.FDA.GOV)" should read "(92N0251@A1.FDAOC.FDA.GOV)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94E-0099]

Determination of Regulatory Review Period for Purposes of Patent Extension; Netrexin™

Correction

In notice document 94-21280 appearing on page 44737 in the issue of Tuesday, August 30, 1994, in the third column, in the fourth full paragraph, in the eighth line, "March 22, 1995" should read "February 27, 1995".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94E-0109]

Determination of Regulatory Review Period for Purposes of Patent Extension; Neurontin®

Correction

In notice document 94-21288 appearing on page 44736 in the issue of Tuesday, August 30, 1994, in the third column, in the fifth full paragraph, in the eighth line, "March 22, 1995" should read "February 27, 1995".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of State Plan Supplements

Correction

In rule document 94-7256 beginning on page 14554, in the issue of Tuesday, March 29, 1994, make the following correction:

§ 1952.246 [Corrected]

On page 14556, in the first column, in § 1952.246, in the first line, "(a) *Legislation.*" should read "(b) *Legislation.*"

BILLING CODE 1505-01-D

federal register

Wednesday
October 5, 1994

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC01

Endangered and Threatened Wildlife and Plants; Removal of Arctic Peregrine Falcon From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines that arctic peregrine falcons (*Falco peregrinus tundrius*) are no longer a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. This determination is based upon evidence that arctic peregrine falcon populations have recovered due to a reduction in organochlorine pesticides in the environment. Section 4(g) of the Act requires the Service to monitor recovered species for at least 5 years following delisting. This rule includes the Service's post-delisting monitoring plan for arctic peregrine falcons. Removal of the arctic peregrine falcon as a threatened species under the Act will not affect the protection provided under the similarity of appearance provision of the Act listing all *Falco peregrinus* found in the wild in the conterminous 48 States as endangered; nor will it affect the protection provided to this species under the Migratory Bird Treaty Act.

EFFECTIVE DATE: October 5, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at Northern Alaska Ecological Services, Endangered Species, U.S. Fish and Wildlife Service, 1412 Airport Way, Fairbanks, Alaska 99701.

FOR FURTHER INFORMATION CONTACT: Ted Swem at the above address (907) 456–0441 or Skip Ambrose at the above address (907) 456–0239.

SUPPLEMENTARY INFORMATION:

Background

The peregrine falcon is a medium-sized brown or blue-gray raptor that preys predominantly upon birds. Three subspecies occur in North America—arctic peregrine falcon (*Falco peregrinus tundrius*); American peregrine falcon (*F. p. anatum*); and Peale's peregrine falcon (*F. p. pealei*). Only arctic peregrine falcons are included in this rule; American and Peale's peregrine falcons are not affected. Arctic peregrine falcons nest in the tundra regions of Alaska, Canada, and Greenland. They are highly migratory with most individuals wintering in Latin America, although some may winter as far north as northern Mexico and southern Florida.

Arctic peregrine falcon numbers declined in the period following World War II as a result of contamination with organochlorine pesticides. Organochlorine pesticides, used widely in the United States and other nations in North, Central, and South America for control of agricultural and forest pests and mosquitos, are stable, long-lived compounds that persist in the environment. Organochlorines are deposited in the fatty tissues of animals eating contaminated food, and bioaccumulate in high concentrations in animals near the top of the food chain, such as peregrine falcons. Peregrine falcons contaminated with organochlorines can die if acutely poisoned, but a serious effect of organochlorines upon peregrine falcons in North America resulted from sublethal doses of the pesticide DDT. The principal metabolite of DDT is DDE. DDE prevents normal calcium deposition during eggshell formation, causing females to lay thin-shelled eggs that often break before hatching. Although organochlorines were not used in areas where arctic peregrine falcons breed, arctic peregrine falcons were nevertheless exposed to organochlorines because they and some of their prey species migrated through or wintered in areas of organochlorine use. Arctic peregrine falcon populations may have declined by as much as 75 percent as a result of organochlorine-caused mortality and reproductive impairment.

As a result of population declines, arctic peregrine falcons were protected in 1970 under the Endangered Species Conservation Act of 1969. They were later afforded the greater protection of the Endangered Species Act of 1973 upon its passage. The Act and its implementing regulations prohibit the take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. The Act also requires review of all activities funded, permitted, or conducted by Federal agencies to consider impacts to endangered or threatened species. As a result of the prohibitions and requirements of the Act, harvest of peregrines for the sport of falconry was prohibited and peregrine falcon nest sites were provided protection. The pivotal action in aiding the recovery of peregrine falcons, however, was regulation of the use of organochlorine pesticides. The use of DDT was restricted in Canada in 1970 and in the United States in 1973. Restrictions that controlled the use of other organochlorine pesticides, including aldrin and dieldrin, were imposed in the United States in 1974.

Following restrictions on the use of organochlorine pesticides, reproductive rates in arctic peregrine falcon populations increased and populations began to expand by the mid- to late-1970's. By 1984, the recovery of arctic peregrine falcons had progressed sufficiently that the Service reclassified the subspecies from endangered to threatened (49 FR 10520, March 20, 1984). The number of arctic peregrine falcons continued to increase. In 1991, the Service announced that it was reviewing the status of the threatened arctic peregrine falcon to determine if a proposal to delist was appropriate (56 FR 26969, June 12, 1991). On the basis of all available information and the comments received in response to the notice of status review, the Service proposed to delist the subspecies on September 30, 1993 (58 FR 51035). A summary of the information demonstrating the recovery of arctic peregrine falcons follows.

Arctic peregrine falcons nest in the tundra regions of Alaska, Canada, and the ice-free perimeter of Greenland. The exact degree of population decline and subsequent recovery has been poorly documented because most breeding areas are extremely remote and because there were few population studies prior to the pesticide era, but it appears likely that the species' population has expanded 3-fold or more since the late 1970's. Counts of the number of pairs found breeding in one area in Alaska and three areas in the Northwest Territories, Canada (NWT), follow:

Year	Colville River, Alaska[2]	Hope Bay NWT[3]	Coppermine NWT[3]	Rankin Inlet NWT[4]
1959[1]	35			
1968[1]	32			

Year	Colville River, Alaska[2]	Hope Bay NWT[3]	Coppermine NWT[3]	Rankin Inlet NWT[4]
1971[1]	25	.....	.....	.....
1978	15	.....	.....	.....
1979	16	.....	.....	.....
1980	21	.....	.....	.....
1981	24	.....	.....	17
1982	27	.....	17	19
1983	26	25	17	19
1984	32	27	28	20
1985	30	29	17	26
1986	34	18	24	25
1987	37	39	29	23
1988	47	35	25	23
1989	53	58	37	22
1990	51	61	34	26
1991	56	52	51	26
1992	57	45	42	24
1993	58	60	44	28

[1] From Cade *et al.* 1968; White and Cade 1975.
[2] 1978–1993—unpublished Service data on file, Fairbanks, Alaska.
[3] Data from Shank *et al.* 1993; Chris Shank, Dept. of Renewable Resources, Govt. of NWT, pers. comm., 1993.
[4] Data from Court *et al.* 1988; C. Shank, pers. comm., 1993.

Population size has increased in these four areas, although the rate of increase has varied among areas. Long-term, historical data are not available from other areas within the breeding distribution of arctic peregrine falcons; however, similar trends have been observed in several other areas for which short-term data are available. The range-wide population size remains unknown because so few areas have been thoroughly sampled, but certainly the breeding population now numbers in the thousands.

Only one local population was known to have been extirpated; this was a small population of about 15 nesting pairs on the north slope of the Yukon Territory (Mossop 1988). This area is apparently being gradually recolonized by individuals from adjacent populations (Dave Mossop, Dept. of Renewable Resources, Yukon Territory, pers. comm., 1992).

Counts of the number of peregrine falcons seen passing fixed points during migration also provide evidence of the rapid increase in the number of arctic peregrine falcons since the late 1970's. Although some of the peregrine falcons seen during migration are American peregrine falcons, the majority seen on the east coast and near the Great Lakes are arctic peregrine falcons (Yates *et al.* 1988; William S. Clark, Cape May Bird Observatory, pers. comm., 1992; Mueller *et al.* 1988). The number of migrants seen during fall migration at two well-known concentration areas on the east coast, Assateague Island, Maryland, and Cape May, New Jersey, reflect the overall growth of the arctic peregrine falcon population. In the years 1970–1975, the average number seen per year at Assateague Island was about 100; by 1976–1979 the average number had increased to 310; and between 1990 and 1993 an average of 564 were counted (Seegar and Yates 1991; Seegar *et al.* 1993; William Seegar, U.S. Army, pers. comm., 1994). At Cape May, the average number seen in 1976–1979 was 136; by 1990–1993, the average number seen per year was 588 (Schultz *et al.* 1992; Paul Kerlinger, Cape May Bird Observatory, pers. comm., 1994). Counts conducted at Cedar Grove, Wisconsin, show a similar trend—the number seen decreased in the 1950's and 1960's, reached a low in the mid-1970's, increased rapidly in the 1980's, and may now equal the numbers seen in the 1930's (Mueller *et al.* 1988).

Review of Peregrine Falcon Recovery Plan

Four regional recovery plans were produced by the Service for peregrine falcons. The Peregrine Falcon Recovery Plan, Alaska Population (Alaska Recovery Plan), was the only plan that established recovery criteria for arctic peregrine falcons. The Alaska Recovery Plan, while including both arctic and American peregrine falcons nesting in Alaska, did not pertain to populations outside of Alaska; recovery objectives and criteria for arctic peregrine falcon populations in Canada and Greenland were never established. This rule applies only to arctic peregrine falcons so only those sections of the Alaska Recovery Plan that pertain to arctic peregrine falcons are mentioned in this discussion.

The Alaska Recovery Plan was written in 1982 using the best information then available. It included a strategy for population monitoring, recovery objectives, and criteria for reclassification. The monitoring scheme proposed that breeding surveys be conducted regularly in the two areas in Alaska (Colville and Sagavanirktok Rivers) for which historical population data were available. The Alaska Recovery Plan listed four parameters to be measured in the study areas to assess recovery status of those populations, and established an objective for each of the parameters. The four parameters and objectives were:

(1) Number of nesting territories occupied by pairs with an objective of 36 total pairs within the 2 specified study areas;

(2) Average number of young per nesting attempt with an objective of 1.4 young per nesting attempt;

(3) Average organochlorine concentration in eggs with an objective of less than 5 ppm DDE; and

(4) Average degree of eggshell thinning with an objective of shells averaging not more than 10 percent thinner than pre-DDT era eggs.

The Alaska Recovery Plan based reclassification criteria upon these objectives. It was suggested that these objectives should be met for 5 years before downlisting to threatened status, and the parameters should remain constant or improve during the ensuing 5 years before delisting.

Recovery plans and objectives are expected to guide and measure recovery, but are intended to be flexible enough to adjust to new information. Research conducted since the Alaska Recovery Plan was written in 1982 has shown that some of the recovery objectives were based upon incorrect assumptions. A discussion of the basis of each objective, the current status of arctic peregrines as measured against the objectives, and a review of recent

information pertaining to the objectives follows:

(1) The objective of 36 pairs occupying territories in the two study areas was based on historical data and assumed that there were 51 available territories and 70 percent of these would be occupied in a fully recovered population (70 percent × 51 = 36). The plan suggested that 36 or more pairs should occupy territories for 10 or more years before delisting. Thirty-six pairs occupied the areas for the first time in 1984, and the number has increased each year since then. Seventy-seven pairs were present in the study areas in 1993, the tenth consecutive year in which this objective was met. The number of pairs now occupying breeding territories (77) greatly exceeds the original estimate of the number of available territories (51).

(2) The objective of 1.4 young per pair was based upon early studies of arctic peregrine falcons. Productivity exceeded 1.4 young per pair for the first time since the pesticide-era in 1982, and averaged about 1.6 young per pair for the 12-year period of 1982–1993.

(3) The objective of DDE residues in eggs averaging less than 5 ppm for 10 or more years was based upon the assumption that arctic peregrine falcons would not reproduce normally as long as residues exceeded this measure (this assumption was based upon the observation that peregrine falcons in the Aleutian Islands reproduced normally in the early 1970's when residues in eggs averaged 5 ppm). Average DDE residues declined below 5 ppm in arctic peregrine falcons in Alaska between 1984 and 1988, but it is unclear exactly when this threshold was crossed. It is therefore uncertain if the objective has been met for at least 10 years.

However, it is now apparent that this objective was inappropriate; normal reproduction was occurring for several years before the average concentration declined to 5 ppm and may have occurred while residues exceeded 10 ppm. The exact relationship between DDE residues in eggs and reproductive success remains unknown. The Service now believes that it is most appropriate to gauge "acceptable" contaminant exposure by reproductive success. Because reproductive success has been sufficient to allow population growth since the late 1970's and the objective for the production of young (1.4 young per pair) has been met or exceeded for 12 years, the Service considers the desired objective for exposure to organochlorines to have been met.

(4) The criterion requiring eggshells to average less than 10 percent thinner than pre-DDT era shells was based upon the observation that Peale's peregrine falcons in the Aleutian Islands reproduced normally with shells 8 percent thinner than normal in the early 1970's. This assumed that peregrine falcons could not reproduce normally if shells were more than 10 percent thinner than normal. Subsequent field work has shown this to be incorrect. Although the degree of thinning has gradually decreased over time, shells collected in arctic Alaska still average approximately 12.5 percent thinner than pre-DDT era shells. Reproduction, however, has been sufficient to fuel population growth since the late 1970's, and productivity has met or exceeded the stated objective for 12 years. The Service considers, therefore, that the basic goal that eggshell thinning not significantly affect reproduction, population growth, or recovery for at least 10 years, has been met.

In summary, the Alaska Recovery Plan identified four parameters to be measured in two study areas in arctic Alaska to monitor population health and recovery. Objectives were established for measuring recovery and indicating when downlisting and delisting were appropriate. The plan suggested that the four objectives were to be met or exceeded for 5 years prior to downlisting to threatened status and an additional 5 years prior to delisting. Two of the four objectives have been met for the 10-year interval suggested as a prerequisite for delisting. However, knowledge gained subsequent to the writing of the recovery plan indicates that the two objectives that have not been met were based upon incorrect assumptions. The Service concludes, based upon current information, that the basic goals underlying all four objectives have been reached—the number of pairs occupying territories in two study areas surpassed the objective for the tenth consecutive year in 1993; productivity surpassed the objective for the twelfth year in 1993; DDE residues in eggs have not prevented population growth and recovery since the late 1970's; and eggshell thinning has not inhibited population growth and recovery since the late 1970's.

Summary of Comments and Recommendations

In the September 30, 1993, proposed rule, the Service requested that all interested parties provide information and comments on the status of arctic peregrine falcons, on the proposed delisting of the subspecies, and on the draft monitoring plan included in the delisting proposal. The appropriate foreign, state and provincial governments, Federal agencies, scientific organizations, and other interested parties were contacted and encouraged to comment. During the 90 day comment period, 39 responses were received by the Service. Responses were received from one Federal agency, 9 foreign governments, 16 State governments, and 13 organizations or private individuals. No requests for public hearings were received. Comments concerning the status of arctic peregrine falcons and the proposed delisting are presented below; comments that addressed the proposed monitoring plan are presented in the Monitoring Plan section of this rule.

Of the 39 responses, 24 (61 percent) expressed support for delisting, 5 (13 percent) opposed delisting, and 10 (26 percent) stated no position. Of those expressing support for delisting, 11 (the government of Trinidad and Tobago, 8 State governments, and 2 organizations) specifically addressed the need for the Service to implement the proposed, post-delisting monitoring plan. Two of those (the government of Trinidad and Tobago and the State of Pennsylvania) stated that their support for delisting was contingent upon implementation of the monitoring plan. One nation (France, which governs the colony of French Guiana in South America), three individuals and one conservation organization opposed delisting. No position on delisting was given by the governments of Canada or Greenland, which are the only nations other than the United States in which arctic peregrine falcons nest.

Responses to the Service's proposal to delist arctic peregrine falcons contained several concerns. In some cases, similar or identical concerns were raised by more than one individual or party submitting comments. Similar comments have been grouped; the different comments and the Service's response to each are listed below.

Comment 1: Arctic peregrine falcons are still at risk from natural and human-caused factors. Additionally, pesticides, in low-level concentrations, may interact synergistically with other human-caused or natural stresses to negatively affect arctic peregrine falcons.

Service response: The Service recognizes that little is known of the effects of low-level pesticide contamination upon arctic peregrine falcons and the synergistic interactions of pesticides with other decimating factors. However, the Service must base its decision to list or delist species upon the factors discussed in the "Summary of Factors Affecting the Species" section of this rule. A species is protected if one or more of the five factors affects its continued existence. Since the late 1970's, arctic peregrine falcon populations have steadily increased in size, indicating that the cumulative and synergistic effects of pesticides and other decimating factors have been insufficient during this interval to threaten arctic peregrine falcons at the population level. The monitoring plan included in this rule is designed to detect any possible changes in the status of the subspecies following delisting, regardless of what factor or combination of factors prompts the change in status.

Comment 2: The use of pesticides may increase in Latin America as agricultural development proceeds.

Service response: The Service is concerned that arctic peregrine falcons and their migratory prey are exposed to pesticides during migration and the winter. Decreasing residues in blood and eggs show that contamination with pesticides is declining, however, despite continued agricultural development in Latin America. As part of the post-delisting monitoring effort, the Service will continue to monitor pesticide residues in arctic peregrine falcon blood and eggs so an increase in contamination can be documented.

Comment 3: The potential for over-utilization of arctic peregrine falcons for falconry following delisting has been underestimated by the Service.

Service response: Take of arctic peregrine falcons will remain prohibited under the Act in the conterminous 48 States by the listing of all *Falco peregrinus* wherever found in the wild due to similarity of appearance. In Alaska take will be governed by the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*). Section 2 of the Migratory Bird Treaty Act requires that in adopting regulations for the take of migratory birds, the Secretary of the Interior is to ensure that take is compatible with the protection of the species. Therefore, take of arctic peregrines, as with other migratory birds, will be regulated so as to provide for adequate conservation of the subspecies.

Comment 4: The *anatum* Peregrine Recovery Team, Canadian Wildlife Service, expressed concern about harvest for falconry following delisting. This Team asked that the Service ensure that capture of migrant falcons will not remove birds from breeding populations not yet completely recovered. They suggested that this could be accomplished by allowing take only on the breeding grounds.

Service response: Take of arctic peregrine falcons migrating through the 48 conterminous States will be prohibited under the Act due to the listing of all *Falco peregrinus* due to similarity of appearance. Moreover, the management of migratory birds, including arctic peregrine falcons, is governed in the United States by the Migratory Bird Treaty Act. The Migratory Bird Treaty Act provides for the cooperative protection of migratory bird resources that are shared by the Treaty signatory nations, including Canada. As the Service develops regulations allowing the harvest of arctic peregrine falcons, the concerns of other nations with which the United States shares this resource will be addressed. In particular, the Service will work with the appropriate Canadian officials to provide for the protection of breeding populations that have not recovered to the satisfaction of Canadian resource managers and recovery teams.

Comment 5: The Florida Game and Fresh Water Fish Commission pointed out that the Service was incorrect in stating that arctic peregrine falcons winter exclusively in Latin America. An estimated 200–300 arctic peregrine falcons over-winter in Florida each year.

Service response: The Service acknowledges that some of the peregrine falcons over-wintering in Florida are undoubtedly of the arctic subspecies. The Service has updated its information on the subspecies to reflect this correction.

Comment 6: The final rule delisting arctic peregrine falcons should be modified to include those American peregrine falcons that nest north of 55 degrees N latitude. This is appropriate because the northern American peregrine falcons have recovered similarly to arctic peregrine falcons. Limiting the delisting rule to arctic peregrine falcons is confusing, inconsistent, and ignores a large portion of a stable, recovered, and definable population of American peregrine falcons.

Service response: The Service listed arctic and American peregrine falcons as endangered under the Endangered Species Protection Act in 1970. They were listed separately, by subspecies, in order to differentiate these subspecies from Peale's peregrine falcons, which did not warrant or receive protection. Arctic and American peregrine falcon populations were affected by pesticides differently—arctic peregrine falcons did not decline to the same extent as American peregrine falcons and they recovered more quickly after the use of organochlorine pesticides was restricted. Additionally, although the recovery of arctic peregrine falcons appears to have progressed to a comparable degree throughout the range of the subspecies, American peregrine falcons have recovered to dissimilar degrees and at various rates in different portions of their range. As a result, the Service is handling the reclassification of American peregrine falcons separately.

Comment 7: It is difficult to identify subspecies of peregrine falcons in the wild. The conservation of listed subspecies, which may be confused with arctic peregrine falcons, will be compromised if arctic peregrine falcons are delisted.

Service response: The Service considers all *Falco peregrinus* in the conterminous 48 States to be endangered under the similarity of appearance provision of the Act and this consideration will not be affected by delisting arctic peregrine falcons (see Effects of This Rule section below). This is to ensure that protection given to American peregrine falcons, currently considered to be endangered, is not weakened by confusion with members of other subspecies. Although this protection pertains only to peregrine falcons in the United States, the Service hopes that other nations, where the subspecies ranges overlap, will similarly regard all peregrine falcons as endangered in order to assist the full recovery of American peregrine falcons.

Comment 8: Delisting will affect international laws and legislation.

Service response: This final rule applies only to United States domestic law. All peregrine falcons are listed under Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Delisting arctic peregrine falcons under the Act will not directly affect classification of the species or subspecies under CITES. Separate procedures to delist the subspecies under CITES can be pursued. Such amendments of the CITES appendices are done cooperatively by the numerous parties to the Convention in accordance with provisions outlined in the Convention's Articles XV and XVI. There are no other international laws or legislation that will be affected by this delisting.

Comment 9: The opinions of Canada and Greenland, countries principally involved, have not been solicited, considered, or provided.

Service response: The Service announced on June 12, 1991, that it was reviewing the status of arctic peregrine falcons and considering whether proposing to delist the subspecies was warranted. The Service notified the federal governments of Canada and Greenland of the status review and asked that they provide pertinent information and comments on whether delisting was appropriate. Neither nation stated a position on delisting but numerous biologists and resource managers within Canada provided the Service with information on the status of the subspecies in Canada. On September 30, 1993, the Service proposed to delist the subspecies and again the governments of Canada and Greenland were asked to provide information and to comment on delisting. The response of the *anatum* Peregrine Falcon Recovery Team,

Canadian Wildlife Service, stated that "the proposal to remove the arctic peregrine falcon from the U.S. list of endangered and threatened wildlife seems well justified by the population increases and sustained productivity that is documented in the September 30, 1993 **Federal Register**." One specific concern was raised (see Comment 4 above) concerning the harvest of arctic peregrine falcons for falconry; this concern will be addressed by the Service when harvest regulations are formulated under the Migratory Bird Treaty Act. No comments were received from the government of Greenland.

Comment 10: The data presented in the proposal indicate that populations in some areas have declined for the last two years. The Service attempted to discount this trend as being the result of "exceptional years."

Service response: Surveys of nesting peregrine falcons at Hope Bay and Coppermine, NWT, are conducted by helicopter at about the time that falcons in these areas are hatching (Shank *et al.* 1993). Failed or non-nesting pairs may be absent at nesting cliffs during single, brief visits to cliffs, so may go undetected in this type of survey (C. Shank, pers. comm., 1992). As a result, annual variation in the number of pairs counted can be greatly affected by annual variation in nesting success. In years with good success, most pairs have viable nests and are present when nest sites are checked. In years with poor nest success, many pairs may have failed by the time surveys are conducted and the adults may go undetected. Annual variation in nesting success is large at Hope Bay and Coppermine, and is probably caused by the extreme weather conditions found near the coast in arctic areas (C. Shank, pers. comm., 1992).

Regression analysis provides a means of detecting and describing trends in the number of pairs found at these areas despite annual variation. Regression analysis shows that the number of pairs at Coppermine and Hope Bay has increased significantly since surveys began and that the rate of population growth has averaged about 10 percent per year. Furthermore, surveys in 1993 showed a slight increase from the previous year at Hope Bay and a substantial increase from 1992 at Coppermine (see **SUMMARY** section above). The Service believes, therefore, that despite several short-term decreases in the number of pairs detected, local populations at both Hope Bay and Coppermine have shown considerable growth in the last 10 to 12 years. Furthermore, the Service believes that decreases seen between 1990 and 1992 do not indicate that populations are declining in either area.

Comment 11: The recovery plan established four criteria to be met before delisting should be considered but only two of the four currently have been met. The data on organochlorine concentrations in eggs and eggshell thickness (the two criteria that have not been met) are unpublished and as such have not been verified and validated by scientists.

Service response: As required by the Act, the Service collected all available information on the status of arctic peregrine falcons before deciding whether delisting was warranted. Much of the available information is unpublished. In using unpublished data, the Service is able to include the most recently acquired data as well as data collected by a broader array of sources. The Service recognizes, however, that unpublished data have not been subjected to review by the scientific community.

The unpublished data and the Service's interpretation of that data were presented to the scientific community for review in the proposal to delist, which was published in the **Federal Register** (September 30, 1993). Since the **Federal Register** is not widely read among scientists, the Service sent copies to and requested comments from over 30 professional biologists that have worked with peregrine falcons in Greenland, Canada, and the United States. Additionally, copies were sent to members of the Western Peregrine Falcon Recovery Team, a number of professional ornithological organizations, the appropriate natural resource agencies in seven provinces and territories in Canada, and every State fish and game agency in the United States. Several professional biologists or resource managers expressed support for delisting—none expressed opposition to delisting. Furthermore, neither the validity of any data contained in the proposal nor the Service's interpretation of the data were questioned.

Summary of Factors Affecting the Species

According to the Act and implementing regulations outlined in 50 CFR part 424, a species shall be listed if the Secretary of the Interior determines that one or more of five factors listed in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted, according to § 424.11(d), if the best scientific and commercial data available substantiate that the species is neither Endangered or Threatened for one of the following reasons:

1. Extinction;
2. Recovery; or
2. Original data for classification of the species were in error.

After a thorough review of all available information, the Service has determined that arctic peregrine falcons are no longer endangered or threatened with extinction. A substantial recovery has taken place since the 1970's, and none of the five factors addressed in section 4(a)(1) of the Act currently jeopardizes the continued existence of arctic peregrine falcons. These factors and their relevance to arctic peregrine falcons are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Arctic peregrine falcons nest in arctic tundra regions of Alaska, Canada, and Greenland. They migrate through the mid-latitudes of North America across a broad front, but concentrate in some coastal and estuarine areas along the Atlantic coast and Gulf of Mexico. Migrants also pass through inland areas including the Great Lakes, Great Plains, and Rocky Mountains, although the relative importance of coastal and inland habitats to migrants is unknown. Most arctic peregrine falcons spend the winter in Latin America, but some winter as far north as southern Florida. Although the rate of habitat alteration in nesting, migration, and wintering habitats is greater now than in the past, the rapid increase in the number of arctic peregrine falcons during the last 15 years indicates that habitat modification does not currently threaten the continued existence of the subspecies.

B. *Over-utilization for commercial, recreational, scientific, or educational purposes.* Delisting of the Arctic peregrine falcon will not result in the over-utilization of the subspecies for the following reasons. All *Falco peregrinus* found in the wild in the conterminous 48 States are listed as endangered due to similarity of appearance. Therefore, take of arctic peregrine falcons migrating through the conterminous 48 States will be prohibited by the Act. Additionally, the take of all migratory birds, including arctic peregrine falcons, is governed by the Migratory Bird Treaty Act and the corresponding regulations codified in 50 CFR Part 21. Migratory bird regulations allow for the take of wild peregrine falcons subsequent to obtaining a permit, for recreational, scientific, and educational purposes, but require that harvest is limited to levels that prevent over-utilization.

C. *Disease or predation.* Although individuals may be vulnerable to disease or predation, these factors are not known to affect arctic peregrine falcons at the population level.

D. *The inadequacy of existing regulatory mechanisms.* Arctic peregrine falcons will remain protected by the similarity of appearance provision of the Act while in the conterminous 48 States as long as other subspecies occurring in this area remain listed. This protection will not extend beyond such time that other peregrine falcons occurring in those areas are removed from the list of endangered and threatened wildlife.

Arctic peregrine falcons are also protected by the Migratory Bird Treaty Act, which governs the taking, killing, possessing, transportation, and importation of migratory birds, their eggs, parts, and nests. A more thorough discussion of the protection offered by the Migratory Bird Treaty Act is included in the Effects of This Rule section below.

In addition to Federal laws governing the taking of arctic peregrine falcons within the United States, international agreements govern the transport of arctic peregrine falcons across international borders. The Convention on International Trade in Endangered Species (CITES) is an international agreement that regulates trade in species threatened with extinction and those that may become threatened if trade is not regulated. The arctic peregrine falcon is currently listed under Appendix I of CITES, and, as a result, international trade in arctic peregrine falcons is restricted by the United States and 122 other signatory nations. This final rule only affects United States domestic endangered species law and does not result in removal of arctic peregrine falcons from Appendix I of CITES.

E. *Other natural or manmade factors affecting its continued existence.* There is general agreement within the scientific community that contamination with organochlorine pesticides was the principal factor responsible for the decline of arctic peregrine falcons. The population decline was likely a result of both reproductive impairment from sublethal dosage and direct mortality from lethal dosage, although the relative importance of those two factors remains unknown. Change in population size, therefore, is the best indicator of the total impact of pesticides because population size is affected by both direct mortality, which is extremely difficult to measure in wild populations, and reproductive impairment, which is more easily quantified in the wild. The consistent growth in arctic peregrine falcon numbers since the late 1970's, previously discussed in the Background section of this rule, provides the strongest supporting evidence that organochlorine pesticides no longer pose a threat at the population level.

The use of organochlorine pesticides was restricted in the United States and Canada in the early 1970's. Their use in Latin America continues, however, and some arctic peregrine falcons undoubtedly winter in areas where organochlorines are currently used. It has been shown, by comparing blood samples collected during fall and spring migration, that migrant peregrine falcons accumulate pesticides while wintering in Latin America (Henny *et al.* 1982). Additionally, some of the avian prey utilized by arctic peregrine falcons during the summer in arctic and subarctic areas also winter in Latin America. Many of these prey return to their northern nesting areas with pesticide residues accumulated during the winter (Fyfe *et al.* 1990). Peregrine falcons preying upon these birds during the summer are thus further exposed to Latin American pesticides. Pesticide use in Latin America, however, may never have been great enough to cause a decline in the number of arctic peregrine falcons. The widespread reproductive failure and population crash coincided with the period of heavy organochlorine use in the United States, and a noticeable increase in productivity occurred in Alaska within a few years following restrictions on the use of organochlorines in the United States.

Furthermore, the exposure of arctic peregrine falcons to organochlorines continues to decrease. Average DDE residues in blood collected from peregrine falcons during spring migration in Texas decreased 38 percent between 1978–1979 and 1984 (Henny *et al.* 1988). Pesticide residues in arctic peregrine falcon eggs have decreased similarly. A sample of eggs from 9 clutches collected in arctic Alaska in 1968 averaged (geometric mean, wet weight basis) 23.5 ppm DDE with a maximum of 99 ppm (Jeff Lincer, BioSystems Analysis, pers. comm., *in litt.*, 1992). By the late 1970's to early 1980's, the average DDE concentration in eggs collected from 19 clutches had declined to 9.3 ppm with a maximum of 46.4 ppm (unpubl. Service data, on file in Fairbanks, Alaska). In 1990–1991, eggs from 13 clutches averaged 3.3 ppm with a maximum of 5.3 ppm (unpubl. Service data, Fairbanks, Alaska). Similar trends were observed in Canada. Residues in eggs collected in arctic Canada averaged 9.9 ppm DDE in 1965–1972 (maximum 72.0); 8.5 ppm in 1973–1979 (max. 19.6); and 6.8 ppm (max. 18.5) in 1980–1986 (Peakall *et al.* 1990). Eggs from 36 clutches collected at Rankin Inlet, NWT, in 1981–1986 averaged 7.6 ppm DDE (Court *et al.* 1990). Eggs collected in Greenland between 1972 and 1978 averaged 12.8 ppm DDE (Burnham and Mattox 1984), but by 1981 and 1982 the maximum (average not given) in 9 eggs was 9.1 ppm (Mattox and Seegar 1988). To put these values in perspective, concentrations of DDE in peregrine falcon eggs in excess of 15 to 20 ppm (parts per million, wet weight basis) are associated with high rates of nesting failure; if residues average less than this critical level, productivity is usually sufficient to maintain population size (Peakall *et al.* 1975; Newton *et al.* 1989). Residues of other organochlorines in arctic peregrine falcon eggs have also decreased since the 1970's, and residues are currently well below concentrations associated with reproductive impairment or population declines.

Most researchers consider DDE-caused eggshell thinning to be the proximate factor that caused peregrine falcon populations to decline in North America. Average eggshell thickness decreased by as much as 24 percent in Alaska during the peak period of organochlorine contamination. This decreased eggshell thickness correlated with greatly reduced reproductive success. Eggshell thickness has increased significantly since the use of DDT was restricted in the United States, but pesticides accumulated in Latin America still affect shell thickness. Shells from Rankin Inlet, NWT, collected in 1981–1986 averaged 15.8 percent thinner than pre-DDT shells (Court *et al.* 1990). Alaskan shells collected in 1979–1984 averaged 13.4 percent thinner than pre-DDT thickness measurements, and shells collected in 1988–1991 averaged about 12 percent thinner. Peregrine populations are expected to decrease in size if eggs have shells averaging at least 17 percent thinner than normal while populations with eggs averaging less than 17 percent thinning generally remain stable or can increase in size (Kiff 1988). Although arctic peregrine falcon eggs remain vulnerable to an increase in exposure to organochlorines, eggshell thinning has been insufficient to prevent widespread population recovery since the late 1970's.

Reproductive success is another parameter used in measuring the effects of pesticide poisoning upon peregrine falcons. "Normal" productivity rates vary among regions; therefore, it is

difficult to assess the health of a local population based upon productivity rate alone. In Alaska, productivity reached its lowest level of about 0.6 yg/pr in the mid 1970's. Productivity improved in the late 1970's, reaching 0.9 yg/pr in 1979. From 1980 to 1993 it varied between 1.3 and 2.0 yg/pr, which was sufficient to support an average annual increase in the breeding population size of about 9 percent (unpublished Service data on file, Fairbanks, Alaska). In Canada, a decrease in the productivity of arctic peregrine falcons was never clearly documented, although populations decreased in size so productivity almost certainly declined. At Rankin Inlet, NWT, productivity averaged about 1.5 yg/pr between 1981 and 1992 (Court *et al.* 1988; C. Shank, pers. comm., 1991, 1992), although annual productivity varied tremendously in response to variation in weather conditions (Court *et al.* 1988). Productivity in Ungava Bay, Quebec, reached a low of 1.33 yg/pr in 1970, and exceeded 2.7 yg/pr in each of 3 surveys conducted since 1980 (Bird and Weaver 1988; David Bird, pers. comm., *in litt.*, 1991). Reproductive rates have remained high in Greenland since observation began in 1972. In western Greenland productivity from 1972 to 1992 remained at least 1.80 yg/pr (William Mattox, Greenland Peregrine Falcon Survey, pers. comm., *in litt.*, 1992). Similarly, in southern Greenland, production remained high from 1981 to 1991 (Knud Falk, Ornis Consult A/S, pers. comm., *in litt.*, 1992).

The only recent measurable effect presumably attributable to organochlorine use in Latin America has been found in Rankin Inlet in the NWT. Between 1982 and 1986, pesticides caused about 10 percent of the nesting pairs to fail, but average productivity within the population was high, and numbers were stable at the extremely high density of one pair per 17 square kilometers (Court *et al.* 1988). Despite the effect on a small portion of the pairs, the overall impact to the population in this area was minimal. There has been no other recent evidence of pesticide-caused reproductive failure found in any other arctic peregrine falcon population studied.

In summary, the reproductive failure and resultant population crash seen in arctic peregrine falcons were likely the result of the heavy use of organochlorines in the United States and possibly Canada. However, arctic peregrines are still exposed to organochlorine pesticides due to continuing use in Latin America. Because organisms at the top of the food chain bioaccumulate environmentally stable contaminants, arctic peregrine falcons remain vulnerable and could suffer from an increase in the use of organochlorines or the widespread use of other stable toxins that affect survival or reproduction. The concentration of organochlorines in arctic peregrine falcon tissues continues to decline, though, and is currently well below those levels associated with population declines. The widespread recovery of arctic peregrine falcon populations is convincing evidence that pesticides and other contaminants do not currently threaten the continued existence of the subspecies.

The Service has carefully reviewed all available scientific and commercial data and concluded that the threat or threats that caused arctic peregrine falcon populations to decline no longer pose a risk to the continued survival of the subspecies. A widespread recovery has followed restrictions on the use of organochlorine pesticides in the United States and Canada. This recovery indicates that the subspecies is no longer endangered or likely to become endangered within the foreseeable future in a significant portion of its range. Under these circumstances, removal from the list of threatened and endangered wildlife is appropriate.

In accordance with 5 U.S.C. 553(d), the Service has determined that this rule relieves an existing restriction and good cause exists to make the effective date of this rule immediate. Delay in implementation of this delisting would cost government agencies staff time and monies conducting formal section 7 consultation on actions which may affect species no longer in need of the protection under the Act. Relieving the existing restriction associated with this listed species will enable Federal agencies to minimize any further delays in project planning and implementation for actions that may affect arctic peregrine falcons.

Effects of This Rule

Pursuant to the similarity of appearance provisions of section 4(e) of the Act, species (or subspecies or distinct vertebrate population segments) that are not considered to be endangered or threatened may nevertheless be treated as such for law enforcement purposes of protecting a listed species (or subspecies or vertebrate population segment) that is biologically endangered or threatened. Under the similarity of appearance provision (implemented by 50 CFR 17.50), the Service must find:

(a) that the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in identifying listed from unlisted species;

(b) that the effect of the substantial difficulty is an additional threat to the listed endangered or threatened species; and

(c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the purposes of the Act.

The Service considers "all free-flying *Falco peregrinus*, not otherwise identifiable as a listed subspecies, to be endangered under the similarity of appearance provision in the 48 conterminous States" (49 FR 10520, March 20, 1984). Therefore, arctic peregrine falcons will be protected as endangered or threatened while migrating through the 48 conterminous States as long as American peregrine falcons that occur in this area are classified as endangered or threatened. American peregrine falcons are known to occur or could occur in all areas in which arctic peregrine falcons are found in the 48 conterminous States, so protection would be complete in this region. The protection of this provision would not extend beyond such time that the American peregrine falcon is delisted. The Service anticipates that recovery will eventually allow the American peregrine falcon to be removed from the list of endangered and threatened wildlife. At such time, the Migratory Bird Treaty Act will govern the take of arctic peregrine falcons, as will the appropriate State regulations. State regulations applying to falconry currently vary among States and are subject to change with time. The applicable State regulations, however, may be more but not less restrictive than Federal regulations.

The similarity of appearance provision does not apply to arctic peregrine falcons while they are outside the conterminous United States. Although American peregrine falcons occur in northern areas, such as Alaska, there is no overlap in the breeding ranges of the two subspecies in Alaska (arctic peregrine falcons breed north of the Brooks Range and along the west coast near Norton Sound whereas American peregrine falcons breed south of the Brooks Range). If this proposal is enacted, therefore, the taking of arctic peregrine falcons within their breeding range would not be prohibited by similarity of appearance protection and would, therefore, be governed by the Migratory Bird Treaty Act. Additionally, the similarity of appearance protection is provided by United States domestic law; this protection does not apply to arctic peregrine falcons outside the United States.

The Migratory Bird Treaty Act regulates the taking of migratory birds for educational, scientific, and recreational purposes, such as falconry. Section 2 states that the Secretary of the Interior is authorized and directed to determine if, and by what means, the take of migratory birds should be allowed, and to adopt suitable regulations permitting and governing the take. In adopting regulations, the Secretary is to consider such factors as distribution and abundance to ensure that take is compatible with the protection of the species. Existing regulations applying to the use of raptors for falconry and the captive propagation of raptors are outlined in 50 CFR 21.28 to 21.30.

In addition to Federal regulations, Alaska State regulations would apply to harvest of arctic peregrine falcons in Alaska. Alaska State regulations outlined in 5 AAC 92.037 do not currently allow for the use of arctic peregrine falcons for falconry, but it is likely that State regulations will be amended to allow harvest in the near future. Alaska State regulation 92.037(b)(3) requires that "no person may permanently export a raptor taken from the wild in Alaska unless the person has legally possessed that raptor for at least one year." The Service anticipates little or no pressure within Alaska to amend this latter regulation; therefore, the take of arctic peregrine falcons in Alaska should remain limited to the roughly 30 falconers who are permanent residents of Alaska.

Falconry regulations in Canada and Greenland do not allow foreign falconers to take raptors, so this delisting will not result in United States residents taking arctic peregrine falcons within these countries. Take of arctic peregrine falcons in Canada and Greenland by residents of those nations is not affected by United States domestic law; therefore, delisting will not affect regulations allowing harvest in those countries. In addition, as mentioned above, international trade in arctic peregrine falcons is regulated as a result of the subspecies' inclusion on the CITES Appendix I list.

Future Conservation Measures

Section 4(g)(1) of the Act requires that the Secretary of the Interior, through the Fish and Wildlife Service, monitor species for at least 5 years after delisting. If evidence acquired during this monitoring period shows that endangered or threatened status should be reinstated to prevent a significant risk to the species, the Service may use the emergency listing authority provided for by the Act. At the end of the 5-year monitoring period, the Service will, based upon results of monitoring efforts, decide if relisting, continued monitoring, or an end to monitoring activities is appropriate.

The Service included a draft monitoring plan in the September 30, 1993 (58 FR 51035) proposal to delist arctic peregrine falcons. The public was asked to provide comments and suggestions for improving the draft plan. Of the 39 parties responding to the proposal, 15 specifically addressed the monitoring plan, including 11 State fish and game agencies, one Federal agency, the government of Trinidad and Tobago, and two non-governmental organizations. Of the 15 that addressed the plan, five supported the plan as written, five stressed the importance of implementing the plan, two stated they supported delisting only if the monitoring plan was implemented, and three suggested modifications to the plan. The parties suggesting improvements raised three different concerns; those concerns and the Service's responses are given below:

Comment 1: The Service has chosen an inappropriate criterion for considering relisting if population size again declines. Thirty-five pairs found nesting along the Colville River in 1959 should be considered the historical norm for this population, not 57 pairs found in 1992.

Service response: The Service believes that recent survey results provide the most accurate estimate of the number of pairs that will nest along the Colville River when the population is in a normal, healthy condition. Furthermore, the Service's post-delisting monitoring plan for arctic peregrine falcons is designed to detect a change in the status of the subspecies. The Service believes that a significant (25 percent or more) change in population size will indicate that some factor or factors is affecting either reproductive performance or survival within the population. A change in productivity or survival will be more quickly detected and accurately measured if recent population estimates are used as baseline levels.

Comment 2: The monitoring plan should be expanded to include one nesting area in the Canadian arctic, one nesting area in Greenland, and migration data from Assateague Island, Maryland, and Cedar Grove, Wisconsin. Cooperative agreements should be pursued with the governments of Canada and Greenland to ensure the continuation of projects in those nations.

Service response: In formulating the monitoring plan, the Service emphasized breeding surveys conducted in Alaska because surveys in northern Alaska were designed to measure the criteria listed in the Peregrine Falcon Recovery Plan, specifically, population size, reproductive performance, and contaminant levels. These factors are the most important in monitoring the status, trends, and threats to the subspecies, and they are not consistently measured in any other study area in North America. Additionally, the Service has greater influence over the funding and implementation of monitoring efforts conducted in the United States, and in particular, those conducted by the Service.

The Service agrees that continuation of on-going research on arctic peregrine falcons will contribute greatly to monitoring the subspecies following delisting. In particular, three nesting surveys in the NWT, Canada, and one in Greenland, and counts of migrants conducted at a number of different sites have provided data substantiating the recovery of the subspecies. The delisting criteria have been modified to consider information on breeding pairs gathered in Canada and Greenland. In addition, the Service intends to utilize all available information when reviewing the overall status of the subspecies, and will encourage the continuation of all research efforts wherever possible.

Comment 3: The monitoring plan should be extended to 10 years to allow adequate measurement of the impacts of resumed falconry harvest, to compensate for short-term variability in productivity due to weather and other variables, and to measure long-term changes in organochlorine contamination and eggshell thickness. This is particularly important because the Service reevaluated criteria concerning organochlorine concentrations in eggs and eggshell thickness in the recovery plan.

Service response: Although two of the recovery criteria in the original recovery plan were reevaluated to reflect current information, the Service feels that the subspecies has recovered sufficiently to warrant delisting without reservation. At the end of the minimum 5-year monitoring period, the Service will review all available information, including organochlorine contamination and eggshell thickness, to decide if continuation of monitoring is warranted for any reason. The Service believes that this evaluation process allows for adequate consideration of all pertinent factors.

After consideration of the comments received on the draft monitoring plan, the Service has produced the following monitoring plan. This plan will be

revised, as appropriate, to incorporate new knowledge of threats to the subspecies, research techniques, or other applicable information.

Monitoring plan. As discussed above, exposure to organochlorines, particularly DDT, was the primary factor causing the decline of arctic peregrine falcons. Organochlorines affected populations by reducing reproductive success, although the mortality rate of adults and juveniles may have increased as well. As productivity and recruitment declined to levels insufficient to replace mortality, populations dwindled. This monitoring plan, therefore, is designed to detect changes in the status of arctic peregrine falcons by monitoring population size, reproductive performance, and contamination with organochlorine pesticides and other pollutants.

In reviewing the status of arctic peregrine falcons and preparing the proposal to delist the subspecies, the Service relied heavily on data provided by Service biologists. However, information from research projects conducted by non-governmental organizations and Canadian provincial agencies was also used extensively. The Service is hopeful that research efforts will continue and that investigators will continue to share data with the Service for management purposes. Monitoring efforts, therefore, will utilize to the fullest extent possible information collected at a number of sites by a variety of organizations and agencies. However, information on each of the parameters to be measured is not collected in every research project. A discussion of each parameter, how the parameter is measured or evaluated, and likely sources of data on the parameter follows.

(1) *Number of Breeding Pairs.* To detect changes in population size, the Service will rely on counts of the number of breeding pairs in selected areas in North America. In order to detect a change in population size in a given area, surveys must be conducted for several years, and the survey area, methods, and timing must be consistent among years. Surveys in four areas have met these criteria. These areas are the Colville River in Alaska and Hope Bay, Coppermine, and Rankin Inlet in the NWT, Canada. Results from surveys in other areas that meet these criteria will be included in future status reviews.

(2) *Reproductive Performance.* To assess reproductive performance, the Service will rely on counts of the number of young produced per territorial pair. Such data are currently available only from the Colville River, Rankin Inlet, and western Greenland study areas; however, pre-DDT era data on reproductive performance are only available for the Colville River study area. In reviewing data on reproductive performance, the Service will utilize information from all study areas where appropriate data are available.

(3) *Contaminant Exposure.* The Service will analyze arctic peregrine falcon blood and eggs in Service-contracted laboratories to monitor exposure to organochlorine pesticides and other environmental contaminants. The Service will collect addled eggs along the Colville River, Alaska, as feasible, during 1995–1999. In addition, the Service will continue its ongoing long-term study on contamination levels by collecting at least 10 eggs in a given year (repeated at approximately 5-year intervals), so that residues at the end of the minimum 5-year monitoring period can be compared with residues found in earlier periods. Additionally, the Service will encourage the collection of eggs from Rankin Inlet, NWT, and western Greenland, near or at the end the minimum 5-year monitoring period for comparison to earlier collections in those areas.

Blood will be collected from migrants during spring 1999 at Padre Island, Texas, as part of an ongoing study to track changes in the exposure of arctic peregrine falcons to organochlorines during the winter. Organochlorine concentrations in 1999 will be compared to those in blood collected in 1978–1979, 1984, and 1994.

Eggs and blood will be analyzed, using gas chromatography/mass spectroscopy, for organochlorines, other pesticides (including mirex), and polychlorinated biphenyls and hexachlorobiphenyls. These analyses will be modified, if appropriate, to include other contaminants that are identified as posing a risk to arctic peregrine falcons.

(4) *Migration Counts.* In addition to the three factors mentioned above, the Service will also review counts of migrating arctic peregrine falcons. Counts of migrating peregrine falcons passing fixed points along migration corridors provide information on gross trends in population size. Hundreds of arctic peregrine falcons are counted annually during fall migration at Cape May, New Jersey, Assateague Island, Maryland, and Padre Island, Texas. Smaller numbers are counted at a number of other locations. The Service will continue to request count data each year from all studies.

Region 7 (Alaska) of the U. S. Fish and Wildlife Service is responsible for coordinating the listing, recovery, and monitoring of arctic peregrine falcons. Therefore, Region 7 will coordinate this monitoring effort. Region 7's efforts will include three facets:

(1) Region 7 staff will continue ongoing arctic peregrine falcon status surveys on the Colville River, Alaska, measuring population size and reproductive performance, and collecting biological samples (eggs, blood, feathers) for contaminant analyses as appropriate.

(2) Region 7 staff will encourage, through memoranda of agreement or similar mechanisms, the continuation of non-Service research efforts that have provided important data on the status of the arctic peregrine falcon throughout its range.

(3) Region 7 staff will exchange information with parties involved in arctic peregrine falcon studies throughout North America and Greenland. Region 7 will compile pertinent information and conduct annual reviews of the status of the subspecies based upon all available information.

At the end of the 5-year monitoring period, the Service will review all available information to determine if relisting, termination of monitoring, or continued monitoring is appropriate. The Service will consider relisting if during, or after, the 5-year monitoring effort, it appears that a reversal of the recent recovery has taken place. If one or more of the following conditions exists, the Service will deem it an indication that a reversal of recovery has taken place and relisting will be considered:

(1) The number of pairs occupying territories in any of the major breeding areas declines by 25 percent or more. Baseline information must meet the standards defined earlier in this section. For example, reclassification would be considered if the number of pairs occupying territories along the Colville River falls below 42 pairs (this would be a 25 percent reduction from the 1992 breeding population of 57 pairs) in any one year;

(2) Average productivity of peregrine falcons nesting along the Colville River drops below 1.4 young per territorial pair for two consecutive surveys (unless other identified factors, such as abnormal weather conditions, explain the lowered productivity). Pre-DDT data are not available on arctic peregrine falcons for Greenland and Canada, so no thresholds of concern for subpopulations in these countries are identifiable;

(3) Average contaminant residues in arctic peregrine falcon eggs or blood exceed those values associated with

widespread reproductive failure or mortality; or

(4) If the number of migrating arctic peregrine falcons declines by 25 percent or more for three consecutive years, the Service will also consider relisting arctic peregrine falcons.

If one or more of these criteria indicate that arctic peregrine falcon populations are declining, the Service will review all available information to determine if arctic peregrine falcons are threatened or endangered with extinction in accordance with listing guidelines outlined in the Act.

The Service will monitor arctic peregrine falcons for a minimum of 5 years following delisting. If, after the 5-year period, studies show that recovery is complete and that no factors that threaten arctic peregrine falcons have been identified, the monitoring program may be reduced or eliminated. If studies show that arctic peregrine falcon populations are declining or if one or more factors that appear to have the potential to cause decline are identified, the Service will continue monitoring beyond the 5-year minimum period. Additionally, if harvest of arctic peregrine falcons is implemented, the Service may conclude that surveys and monitoring are necessary. If continuation of the monitoring effort is warranted for any reason, the Service will evaluate the current 5-year monitoring plan to determine if modification of the plan is necessary.

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 Act. A notice outlining the Service's reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from Ted Swem (see **ADDRESSES** above).

Author

The primary author of this document is Ted Swem (see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is 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.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by removing the entry for "Falcon, Arctic peregrine, *Falco peregrinus tundrius*" under "Birds" from the list of Endangered and Threatened Wildlife.

Dated: September 23, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–24560 Filed 10–4–94; 8:45 am]

BILLING CODE 4310–55–P

federal register

Wednesday
October 5, 1994

Part III

The President

Memorandum of September 30—Delegation of Authority

Federal Register
Vol. 59, No. 192
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Presidential Documents

Title 3—

The President

Memorandum of September 30, 1994

Delegation of Authority

Memorandum for the Attorney General

Pursuant to authority vested in me as the Chief Executive Officer of the United States, and consistent with the provisions of the Hatch Act Reform Amendment regulations, 5 CFR 734.104, and section 301 of title 3, United States Code, I delegate to you the authority to limit the political activities of political appointees of the Department of Justice, including Presidential appointees, Presidential appointees with Senate confirmation, noncareer SES appointees, and Schedule C appointees.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, September 30, 1994.

[FR Doc. 94-24864
Filed 10-4-94; 9:47 am]
Billing code 4410-01-P

federal register

Wednesday
October 5, 1994

Part IV

Executive Office of the President

Policy Dialog Advisory Committee to Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles; Open Meeting; Notice

EXECUTIVE OFFICE OF THE PRESIDENT

Open Meeting of Policy Dialog Advisory Committee to Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles

AGENCY: Executive Office of the President.

ACTION: Meeting of Policy Dialog Advisory Committee.

SUMMARY: The Executive Office of the President has established a Policy Dialog Advisory Committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles. This committee has been authorized under the President's Climate Change Action Plan and Presidential Review Directive NEC–1. Pursuant to section 9(c) of the Federal Advisory Committee Act (FACA, 5 U.S.C. App. 2, § 9(c)), a copy of the Committee Charter has been filed with the Administrator of General Services and with the Library of Congress.

The second meeting of this committee will be held on October 19 and 20, 1994. The purpose of the meeting is to continue discussion of committee procedures and of policy options. The committee meeting is open to the public without need for advance registration.

DATES: The Committee will meet on October 19, 1994 from 9:30 a.m. to 5:30 p.m., and on October 20, 1994 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The October 19 portion of the meeting will be held at the Quality Hotel Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC. The October 20 portion of the meeting will be held in Room 2230 at the United States Department of Transportation, 400 7th Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the substantive issues to be dealt with by the advisory committee, contact: Ellen Seidman, Special Assistant to the President for Economic Policy, Washington, DC 20500, phone (202) 456–2802, fax (202) 456–2223; Henry Kelly, Assistant Director for Technology, Office of Science and Technology Policy, phone (202) 456–6034, fax (202) 456–6023; Wesley Warren, Associate Director, Office on Environmental Policy, phone (202) 456–6224, fax (202) 456–2710; or Michael Toman, Senior Economist, Council of Economic Advisors, phone (202) 395–5012, fax (202) 395–6853. For information pertaining to administrative matters contact: Deborah Dalton, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, phone (202) 260–5495.

SUPPLEMENTAL INFORMATION:

I. Background

On April 14, 1994, the Executive Office of the President published in the **Federal Register** a notice of intent to form a 30-member policy dialog advisory committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles.

As set forth in the April 14, 1994 notice, the policy dialog arises out of the President's Climate Change Action Plan, issued in October 1993. The committee will develop recommendations on the sets of policies that would, if adopted, most cost-effectively obtain a return to 1990 levels of greenhouse gas emissions from personal motor vehicles by the years 2005, 2015 and 2025, with no upturn thereafter. This framework of achievement of 1990 emissions levels in three alternative years is intended to focus the issues and the recommendations to be considered by the committee. Decisions on the amount and timing of reductions in greenhouse gas emissions from personal motor vehicles, and the policies to attain them, remain the responsibility of the federal government. The Administration has stated that it is committed to significant reductions in greenhouse gas emissions from personal motor vehicles.

The 30-member committee includes representatives from state and local governments; the automobile industry and related parties; labor; transportation fuels; and public interest groups, including the driving public. The Committee held its first meeting on September 28 and 29, 1994 in Washington, DC. A draft summary of that meeting will be available at the second meeting, and will also be available after the second meeting on the Technology Transfer Network of the Office of Air Quality Planning & Standards of the Environmental Protection Agency. The public may also communicate with the committee and the facilitator through this facility. The system will be able to be accessed electronically (for modems up to 14,000 bps) starting October 10, 1994, by calling (919) 541–5742. Help in accessing the system can be obtained by calling (919) 541–5384 between 1 and 5 Eastern Daylight Savings Time. Neither of these numbers is a toll-free number.

II. Agenda for the Meeting

The topics that will be covered at the meeting are:

- Committee procedural protocols and operating plan for the next six months, including structure for working groups;
- Revisions to the list of policy options, and development of criteria for evaluating options; and
- Factors affecting vehicle efficiency.

Dated: October 4, 1994.

W. Bowman Cutter,

Deputy Assistant to the President for Economic Policy.

John H. Gibbons,

Director, Office of Science and Technology Policy.

Catherine R. Zoi,

Deputy Director, Office on Environmental Policy.

[FR Doc. 94–24910 Filed 10–4–94; 1:15 pm]

BILLING CODE 3195–01–M

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