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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 94–093–1]

Brucellosis in Cattle and Bison; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are increasing the amount of Federal indemnity for brucellosis reactor and brucellosis-exposed cattle and bison destroyed during herd depopulation, and are increasing the amount of Federal indemnity for cattle and bison destroyed after being sold or traded from a herd that is subsequently found to be affected with brucellosis. These actions are necessary to give owners sufficient financial incentive to promptly destroy brucellosis-affected cattle and bison, in order to accelerate the eradication of brucellosis in the United States and protect other cattle and bison from brucellosis.

DATES: Interim rule effective October 17, 1994. Consideration will be given only to comments received on or before December 16, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 94–093–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

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

SUPPLEMENTARY INFORMATION:

Background

Brucellosis, also called Bang's disease or undulant fever, is a serious infectious disease of cattle, bison, and other species, including humans, caused by bacteria of the genus *Brucella*. Brucellosis in cattle and bison is characterized by fever, sterility, slow breeding, abortion, and loss of milk production. To help prevent the spread of brucellosis, the regulations in 9 CFR part 51 (referred to below as the regulations) provide for payment of Federal indemnity to owners of certain animals destroyed because of brucellosis. The payment of indemnity is intended to provide owners with financial incentive to promptly destroy animals infected with or exposed to brucellosis. Because the continued presence of brucellosis in a herd seriously threatens the health of animals in that herd and other herds, the prompt destruction of brucellosis-affected cattle or bison is critical if brucellosis eradication efforts in the United States are to succeed.

Under § 51.3(a)(2)(i) of the regulations, the Administrator of the Animal and Plant Health Inspection Service may authorize the payment of Federal indemnity by the United States Department of Agriculture to any owner whose herd of cattle or bison is destroyed because of brucellosis. Section 51.3(a)(2)(ii) of the regulations sets forth the amount of Federal indemnity that will be paid for such cattle and bison. Under the regulations prior to the effective date of this interim rule, in all of the United States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity paid per animal could not exceed $250 for any registered cattle or nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. In Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity could not exceed $250 for any cattle or bison.

The rates for indemnity payments prior to this interim rule have made a number of owners reluctant to destroy their herds, due to the financial loss that could result from selling an animal at slaughter prices, rather than breeding prices. For instance, in 1993, the slaughter value of nonregistered cattle other than dairy cattle averaged approximately $475 per head, whereas the cost of replacing such an animal for breeding averaged close to $770 per head. Therefore, even by combining slaughter value with the $150 Federal indemnity payment, an owner suffered a significant loss per head when depopulating. Owners of dairy cattle experienced even greater losses when depopulating. Combining the average slaughter value of approximately $475 and the Federal indemnity payment of $250 provided an owner with approximately $725 per head, compared to approximately $1,160 in replacement cost.

The reluctance of some owners to depopulate their herds resulted in increased exposure of cattle and bison to infected animals and increased incidence of brucellosis infection. This, in turn, has resulted in increased brucellosis eradication costs.

Therefore, in this interim rule, we are increasing the amount of indemnity that will be paid for cattle and bison destroyed during herd depopulation. Under this interim rule, in States other than Class Free States, the amount of Federal indemnity shall not exceed $250 for any nonregistered cattle other than dairy cattle, and $250 for any bison. For any registered cattle, nonregistered dairy cattle, or, in Class Free States, any cattle or bison from herds affected with brucellosis, the amount of Federal indemnity shall not exceed the lesser of 95 percent of appraised value, minus salvage value, or $750. These rates shall apply to brucellosis reactor cattle and bison, as well as to other sexually intact cattle and bison in the herd. (See discussion below under the heading "Brucellosis-Exposed Female Calves.") The appraisal is to be conducted by an independent appraiser assigned by the Administrator. The higher indemnity rates for nonregistered cattle other than dairy cattle in Class Free States are necessary to ensure that brucellosis is not spread in those States that have been freed of the disease.

Additionally, we will pay these new rates to owners who have brucellosis-exposed cattle or bison destroyed that were previously sold or traded from a herd that, subsequent to the sale or trade, is found to be affected with brucellosis. On April 26, 1994, we published in the **Federal Register** (59 FR 21634–21635, Docket No. 93–023–2) a final rule that provided for payment of indemnity for the destruction of such animals. The amount of indemnity was the same as that provided for cattle and bison destroyed as part of herd depopulation under § 51.3(a)(2)(ii). Providing for payment of indemnity for these animals was considered necessary to help protect the herd to which the cattle or bison were moved, by encouraging prompt destruction of potentially infected additions to the herd. In order to provide owners with the financial incentive to destroy such potentially infected cattle and bison, we are amending § 51.3(a)(4) to provide the same rates of indemnity for these cattle and bison as for cattle and bison destroyed as part of herd depopulation.

Brucellosis-Exposed Female Calves

We are also amending § 51.3 to raise the maximum allowable indemnity payment for exposed female calves destroyed during herd depopulation. Prior to the effective date of this interim rule, the regulations provided that the Administrator could authorize the payment of Federal indemnity of not more than $50 per head to any owner whose exposed female calf or calves were destroyed because of brucellosis. (Under § 51.1 of the regulations prior to the effective date of this interim rule, *exposed female calf* meant "a female bovine less than 6 months of age which is nursed by a brucellosis reactor at the time such reactor is condemned.")

The indemnity rate for exposed female calves was lower than that for older cattle due to the relatively low value of calves. However, this relatively low rate has discouraged owners from considering whole herd depopulation. Therefore, to encourage the prompt destruction of all potentially infected animals in a herd, we are amending § 51.3(a)(3) to provide that the maximum $50 indemnity payment for a female calf exposed to brucellosis does not apply to female calves that are destroyed during herd depopulation. The indemnity for exposed female calves destroyed during herd depopulation will be the same as that for other cattle and bison included in herd depopulation.

Also, in this interim rule, we are amending § 51.3(a)(3) of the regulations to clarify that indemnity payments for exposed female calves shall apply only to sexually intact female calves. Female bovines that are not sexually intact are not capable of transmitting brucellosis, and their destruction is not necessary to prevent the spread of the disease. Our policy, therefore, has been not to pay indemnity for female calves that are not sexually intact. We are adding a definition of *sexually intact exposed female calf* to § 51.1 to mean a female bovine less than 6 months of age that is nursed by a brucellosis reactor at the time such reactor is condemned, and that has not been altered to make it incapable of reproduction. Because brucellosis is a disease of sexually intact animals, steer calves, which have been castrated, do not pose a risk of transmitting brucellosis. Because male calves can be more easily altered than female calves, and it is economically more advantageous to owners to alter such male calves than to have them destroyed, the regulations do not specifically address the destruction of exposed male calves.

Acceleration of Brucellosis Eradication

We estimate that, under the indemnity payment rates provided for prior to the effective date of this interim rule, it would have taken 6 to 12 years to reach the goal of complete eradication of brucellosis from domestic cattle and bison in the United States, with a cost to the Federal Government of between $14,619,000 and $25,975,000. In contrast, because the provisions of this interim rule will encourage the rapid depopulation of herds known to be affected with brucellosis, and therefore increase program effectiveness, total eradication of brucellosis from domestic cattle and bison could be accomplished by 1998, with projected costs of approximately $3,290,000. Thus, we expect the approximate cost savings to the Federal Government from the accelerated program to be between $11.3 million and $22.7 million.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the spread of brucellosis that might occur if owners of cattle and bison were to cease entirely the depopulation of herds affected with the disease.

Under normal conditions, owners of cattle and bison affected with brucellosis are most willing to depopulate their herds in the fall, because steer calves are usually old enough to wean in the fall, and depopulating in the fall saves the expense of buying feed for the winter. However, if the increase in indemnity payments provided for in this rule were to be effected using proposed rulemaking, owners, in anticipation of an increase, would likely refuse to depopulate until the rule is made final. This would cause a cessation of the depopulation of affected herds for several months, which would seriously hinder eradication efforts and increase the risk of the spread of brucellosis.

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

Executive Order 12866 and Regulatory Flexibility Act

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

In this interim rule, we are increasing the amount of Federal indemnity for brucellosis reactor and brucellosis-exposed cattle and bison destroyed during herd depopulation, and are increasing the amount of Federal indemnity for cattle and bison destroyed after being sold or traded from a herd that is subsequently found to be affected with brucellosis. Under this interim rule, in States other than Class Free States, the amount of Federal indemnity shall not exceed $250 for any nonregistered cattle other than dairy cattle, and $250 for any bison. For any registered cattle, nonregistered dairy cattle, or, in Class Free States, any cattle or bison from herds affected with brucellosis, the amount of Federal indemnity shall not exceed the lesser of 95 percent of appraised value, minus salvage value, or $750. Prior to this interim rule, indemnity paid per animal could not exceed $250 for any registered cattle or nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. In Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the

amount of Federal indemnity could not exceed $250 for any cattle or bison.

In 1993, beef and cull dairy cows sold for slaughter brought an average of $476 per 1,000-pound animal. The replacement cost of a steer or heifer averaged $768 in 1993, while a dairy herd replacement cow averaged $1,160.

Under Federal regulations, owners cannot be required to depopulate their herds because of brucellosis. However, because having diseased animals and/or having a herd under quarantine creates a severe competitive disadvantage for an owner, we expect the increase in indemnity rates provided for in this interim rule to encourage more owners to agree to whole herd depopulation.

As of June 30, 1994, there were 204 herds under quarantine for brucellosis. These include 200 beef herds with a total of approximately 10,000 head of cattle and 4 dairy herds with a total of about 5,000 head. All of the owners of the beef herds that are under quarantine, but none of the owners of the dairy herds, can be considered small entities (annual gross receipts of $0.5 million or less, according to Small Business Administration size standards). There are no registered herds under quarantine. The approximately 15,000 head of cattle under quarantine represent less than .015 percent of the total cattle population in the United States.

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

Executive Order 12372

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

Executive Order 12778

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 51

Animal diseases, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 51 is amended as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

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

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 51.1 is amended by removing the definition of *exposed female calf*, and adding a definition of *sexually intact exposed female calf*, in alphabetical order, to read as follows:

§ 51.1 Definitions.

* * * * *

Sexually intact exposed female calf. A female bovine less than 6 months of age that is nursed by a brucellosis reactor at the time such reactor is condemned, and that has not been altered to make it incapable of reproduction.

* * * * *

3. In § 51.3, paragraph (a)(1), the second sentence is amended by removing the words "The indemnity" and adding in their place the words "Except for cattle and bison destroyed as part of whole herd depopulation in accordance with paragraph (a)(2)(i) of this section, the indemnity"; paragraph (a)(2)(i) is amended by removing the last sentence; paragraph (a)(2)(ii) is revised to read as set forth below; paragraph (a)(3) is amended by revising the third sentence to read as set forth below; and, in paragraph (a)(4), the fourth and fifth sentences are removed and three new sentences are added in their place to read as set forth below.

§ 51.3 Payment to owners for animals destroyed.

* * * * *

(a) * * *

(2) * * *

(ii) *Amount of Federal indemnity.* Payments of Federal indemnity shall be made at the rates in effect at the time the Administrator approves depopulation for the herd. In States other than Class Free States, the amount of Federal indemnity shall not exceed $250 for any nonregistered cattle other than dairy cattle, and $250 for any bison. For any registered cattle, nonregistered dairy cattle, or, in Class Free States, any cattle or bison from herds affected with brucellosis, the amount of Federal indemnity shall not exceed the lesser of 95 percent of appraised value, minus salvage value, or $750. The appraisal shall be conducted by an independent appraiser assigned by the Administrator.

(3) * * * Except for sexually intact exposed female calves destroyed as part of herd depopulation under paragraph (a)(2)(ii) of this section, the indemnity for sexually intact exposed female calves destroyed because of brucellosis shall not exceed $50 per head. * * *

(4) * * * In States other than Class Free States, the amount of Federal indemnity shall not exceed $250 for any nonregistered cattle other than dairy cattle, and $250 for any bison. For any registered cattle, nonregistered dairy cattle, or, in Class Free States, any cattle or bison from herds affected with brucellosis, the amount of Federal indemnity shall not exceed the lesser of 95 percent of appraised value, minus salvage value, or $750. The appraisal shall be conducted by an independent appraiser assigned by the Administrator. * * *

* * * * *

Done in Washington, DC, this 11th day of October 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–25610 Filed 10–14–94; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 92

[Docket No. 94–080–1]

Specifically Approved States Authorized to Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding New Hampshire to the list of States approved to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). We are taking this action because New Hampshire has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

DATES: This rule will be effective on December 16, 1994, unless we receive

written adverse comments or written notice of intent to submit adverse comments on or before November 16, 1994. If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your submission refers to Docket No. 94–080–1. Submissions received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, Import-Export Animals Staff, National Center for Import and Export, Veterinary Services, APHIS, USDA, room 766, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8170.

SUPPLEMENTARY INFORMATION:

Background

The animal importation regulations (contained in 9 CFR part 92 and referred to below as the regulations), among other things, prohibit or restrict the importation of certain animals, including horses, into the United States to protect U.S. livestock from communicable diseases. Sections 92.301(c)(2), 92.304(a)(4)(ii), and 92.304(a)(7)(ii) allow certain horses (mares and stallions over 731 days old) to be imported into the United States from certain countries where contagious equine metritis (CEM) exists if specific requirements to prevent their introducing CEM into the United States are met and the mares and stallions are consigned to approved States for further inspection, treatment, and testing.

Mares and stallions over 731 days old must be consigned to States that have been approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) as meeting conditions necessary to ensure that the mares and stallions are free of CEM. These conditions, which concern inspection, treatment, and testing of the mares and stallions, are contained in § 92.304(a)(5) of the regulations for stallions and in § 92.304(a)(8) for mares. New Hampshire has agreed to abide by the State regulations concerning mares and stallions imported from countries where CEM exists, and has entered into a written agreement with the Administrator, APHIS, to enforce its State laws and regulations that meet the requirements of § 92.304(a)(5) and § 92.304(a)(8) of the regulations, to control CEM.

This direct final rule will add New Hampshire to the list of States approved to receive certain mares (§ 92.304(a)(7)(ii)) and stallions (§ 92.304(a)(4)(ii)) imported into the United States from countries affected with CEM.

Effective Date

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register.**

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This direct final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We anticipate that fewer than 20 mares and stallions over 731 days old will be imported into the State of New Hampshire annually from countries where CEM exists. Approximately 200–300 mares and stallions over 731 days old from countries where CEM exists were imported into approved States in fiscal year 1993. During this same period, approximately 2,228 horses of all classes were imported into the United States from countries other than Canada and Mexico through air and ocean ports; approximately 20,585 horses were imported from Canada; and, approximately 9,676 horses were imported from Mexico.

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

Executive Order 12778

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 92

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

Accordingly, 9 CFR part 92 is amended as follows:

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

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

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

§ 92.304 [Amended]

2. Section 92.304 is amended as follows:

a. Paragraph (a)(4)(ii), by adding, in alphabetical order, "The State of New Hampshire".

b. Paragraph (a)(7)(ii), by adding, in alphabetical order, "The State of New Hampshire".

Done in Washington, DC, this 11th day of October 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–25611 Filed 10–14–94; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Parts 92 and 94

[Docket No. 92–107–3]

RIN 0579–AA62

Llamas and Alpacas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are removing from the regulations certain health certification requirements and requirements concerning quarantine upon arrival in the United States for llamas and alpacas from Chile and all other countries declared free of foot-and-mouth disease and rinderpest on or after September 28, 1990. This action appears warranted to relieve unnecessary and burdensome restrictions.

EFFECTIVE DATE: November 16, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 761, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7511.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 and 94 (referred to below as the regulations) impose restrictions on the importation into the United States of specified animals and animal products to prevent the introduction of various livestock and poultry diseases into the United States.

The regulations in § 92.435 set forth health certification and quarantine requirements for llamas and alpacas imported into the United States from Chile and any other country where foot-and-mouth disease (FMD) or rinderpest has been known to exist and that was declared free of those diseases on or after September 28, 1990. These countries—Austria, Belgium, Chile, France, Germany, Hungary, The Netherlands, Poland, Republic of Korea, and Spain—are listed in § 94.1(d)(1). Section 92.435 includes the requirements that llamas and alpacas from countries listed in § 94.1(d)(1) undergo quarantine-upon-arrival for at least 40 days at the high-security Harry S Truman Animal Import Center (HSTAIC).

On August 5, 1993, we published in the **Federal Register** (58 FR 41643–41645, Docket No. 92–107–1) a proposal to amend the regulations by removing § 92.435, "Llamas and alpacas," and by deleting § 94.1(d) and the related cross-references throughout part 92.

We solicited comments concerning our proposal for a 60-day period ending October 4, 1993. In response to a number of comments, we published a notice in the **Federal Register** on September 28, 1993 (58 FR 50527–50528, Docket No. 92–107–2) extending the comment period to November 18, 1993. We received 413 comments by that date. They were from llama breeders and associations, veterinarians, State departments of agriculture, and members of Congress. Of these, 355 comments were opposed to the proposed rule, and 58 supported the proposed rule. All of the comments received in opposition to the proposal concerned the importation of llamas and alpacas from Chile; none of the comments addressed any concern with llamas or alpacas imported from other countries listed in § 94.1(d)(1) of the regulations. We considered all of the comments we received. They are discussed below by topic.

One of the most common concerns of commenters was that this rule would allow the indiscriminate importation of llamas and alpacas from Chile without certification, testing, or quarantine, thus risking exposure of U.S. livestock not only to FMD, but to tuberculosis, brucellosis, Johne's disease, bluetongue, vesicular stomatitis, and other viral and parasitic diseases.

As stated above, under § 92.435, llamas and alpacas from Chile and other countries listed in § 94.1(d)(1) have been required to undergo a preembarkation quarantine, testing for a variety of livestock diseases, and postentry quarantine in the United States at the Harry S Truman Animal Import Center (HSTAIC). This final rule removes § 92.435 from the regulations.

However, the absence of § 92.435 in the regulations does not mean that llamas and alpacas will be imported into the United States indiscriminately. Currently, other ruminants, except ruminants from Canada and Mexico, undergo a 60-day isolation period in their country of origin prior to export, to ensure that the animals are free of disease and are not exposed to disease within those 60 days. Llamas and alpacas imported from Chile and other countries listed in § 94.1(d)(1) will likewise undergo quarantine in the country of origin for 60 days prior to export. In accordance with § 92.411, which contains the requirements for quarantine of ruminants upon their arrival in the United States, the llamas and alpacas will be quarantined upon arrival at the port of entry. Ports designated for the importation of ruminants requiring quarantine upon arrival are listed in § 92.403. Paragraph (b) of § 92.411 requires that quarantine of llamas and alpacas must be for a minimum of 15 days, counting from the date of arrival at the port of entry in the United States. Currently, llamas and alpacas that are not imported through HSTAIC are quarantined for 30 days upon arrival in the United States. Llamas and alpacas imported from Chile and other countries listed in § 94.1(d)(1) will also undergo the same 30-day quarantine.

APHIS will also continue to test llamas and alpacas imported from countries that have been listed in § 94.1(d)(1) for diseases of concern and will continue to require treatment for endo- and ecto-parasites. Section 92.404 of the regulations, "Import permits for ruminants and for ruminant specimens for diagnostic purposes; and reservation fees for space at quarantine facilities maintained by APHIS," provides that in order to import a ruminant, an importer must apply for and obtain an APHIS import permit stating certain information, such as the number of ruminants to be imported, the country of origin, individual ruminant identification, and the proposed date of arrival. Section 92.404 further provides that "(a)dditional information may be required in the form of certificates concerning specific diseases to which the ruminants are susceptible, as well as vaccinations or other precautionary treatments to which the ruminants or ruminant test specimens have been subjected. Notice of any such requirement will be given to the applicant in each case."

Accordingly, APHIS requires ruminants that are to be imported into the United States to be tested for certain diseases, according to the specific disease concerns in the animals' country of origin. Llamas and alpacas imported from countries that have been listed in § 94.1(d)(1) will be governed by this same provision. Documentation of test results and treatments will have to be included on a certificate, which is required to accompany the llamas and

alpacas (see § 92.405, "Certificate for ruminants."). APHIS does not list in the regulations all the tests required for importation of ruminants because disease concerns vary by country and species.

In short, APHIS is committed to preventing the introduction of communicable diseases of livestock into the United States. Given the FMD-free status of Chile and other countries that have been listed in § 94.1(d)(1), we have determined that post-entry quarantine at HSTAIC for llamas and alpacas from these countries is not necessary. However, under the regulations in part 92, subpart D, llamas and alpacas imported from Chile and other countries that have been listed in § 94.1(d)(1) will continue to be quarantined, and will be tested for all diseases of concern. Removing § 92.435 from the regulations enables importers to import llamas and alpacas under conditions appropriate to the disease status of the animals' country of origin.

Another concern of commenters was that Chile is surrounded by countries where FMD exists. Commenters contended that Chile has no reliable veterinary infrastructure to prevent the illegal movement of animals into the country, and, therefore, passage of this rule will encourage smuggling of llamas and alpacas from neighboring Bolivia and Peru (both countries in which FMD exists) into Chile, for subsequent importation into the United States.

We believe that Chile has demonstrated its ability and willingness to prevent such smuggling. In 1989, a team from APHIS visited Chile to evaluate its veterinary infrastructure, border controls, laboratory capabilities, and surveillance and reporting system. Based on this first-hand observation, the team found Chile's veterinary and animal health systems to be sound. As a result, APHIS declared Chile free from FMD in 1990. Chile's FMD-free status has been recognized by the Office of International Epizootics (OIE) since 1988, as well. Chile has remained FMD-free for over 7 years, despite the fact that neighboring countries continue to experience difficulties with controlling the disease. Chile could not remain FMD free under these circumstances if Chile did not have an effective veterinary infrastructure and surveillance system.

While no country's borders are completely impenetrable, Chile has demonstrated the effectiveness of its program to control the movement of animals across its borders with neighboring Argentina, Bolivia, and Peru. Surveillance along Chile's borders is a cooperative effort between Chile's national veterinary service, the Federal police, customs officials, and international police. Chile prohibits the importation of FMD-susceptible animals from countries where FMD exists. Any animal found crossing the border from Argentina, Bolivia, or Peru (all countries in which FMD exists) is shot and buried on-site. In addition to its border control system, Chile also maintains a series of internal checkpoints along its roadways and highways. Recent FMD outbreaks in Peru and Argentina have not spilled over into Chile, demonstrating the success of Chile's efforts against incursion of FMD from its neighbors.

Some commenters suggested that Chile should be regionalized and llamas and alpacas should be imported into the United States only from areas south of the Atacama desert. As previously discussed in this rulemaking document, many commenters were concerned that it is difficult to control the movement of llamas and alpacas from neighboring countries across Chile's borders. According to commenters, the Atacama desert, located in north-central Chile and covering most of the Antofagasta region, would serve as a natural barrier through which movement of animals would be more easily controlled than on the borders shared by Chile, Bolivia, and Peru.

APHIS will take no action based on this comment because the entire country of Chile is free from FMD and, therefore, we see no reason to establish regionalization within Chile. Before recognizing Chile's FMD-free status, we observed Chile's internal monitoring system as well as border controls, and found them to be effective in preventing the introduction of FMD from neighboring countries.

Many commenters criticized the APHIS-funded research project which was conducted in Argentina and which was cited in the proposal to this rule as being part of the basis for the proposed rule change. Some commenters believe that the results of the FMD study conducted in Argentina are not convincing because reliable tests for detecting FMD in llamas are lacking. We disagree with this comment. The serological tests used in the study were the virus infection associated antigen (VIAA) test and the virus neutralization (VN) test. These tests, which are internationally recognized, are the best tests available for detection of FMD antibodies in any susceptible animal species. In all cases where experimental infection of llamas or alpacas with the FMD virus has been achieved, we have been able to detect the antibody using these tests.

One commenter was concerned that the Argentine study did not deal with the issue of silent carriers. An FMD carrier animal is an apparently healthy animal that has recovered from FMD infection but that continues to carry the FMD virus in its oesophageal-pharyngeal (OP) region for periods longer than 28 days, making it possible for the animal to potentially spread the disease to other animals. We stated in the proposal that a primary reason for retaining the HSTAIC quarantine requirement for llamas and alpacas from Chile and other countries listed in § 94.1(d)(1) had been our concern about the possible existence of a carrier state in llamas and alpacas. Therefore, one of the purposes of the study in Argentina was to determine the ability of llamas and alpacas, whether infected by or exposed to livestock actively shedding FMD virus, to become FMD carriers. From the results of this study, it was concluded that llamas have a high degree of resistance to infection with the FMD virus, that FMD infected llamas will be detected using the VIAA and VN tests, and that, unlike cattle and some other livestock, infected llamas only carry the FMD virus for a short time.

One commenter stated that too few llamas were infected in the Argentine study to properly evaluate their ability to be FMD carriers. In the clinical trial portion of the study, the FMD virus was isolated from only 2 of the 60 exposed llamas. The clinical trial was designed to evaluate what would occur in field conditions. Under natural conditions, an animal must become infected by way of exposure to FMD before it can be a carrier. To artificially generate a larger number of carriers (by way of injection) would not have demonstrated what can be expected to occur under natural conditions.

Another commenter noted that, while all llamas examined in the field survey portion of the Argentine study tested seronegative to FMD, so did all sheep tested in the field survey. Since sheep are susceptible to FMD, the commenter felt that this result suggests the llamas on the farms selected for the study may not have been exposed to the disease. Further, the commenter states that all OP samples taken from llamas and from a few selected cattle and sheep during the field survey were negative to FMD virus, again suggesting that the llamas may not have been exposed to FMD virus.

The commenter's observations are valid. However, the field survey was conducted on nine farms. Only five of these farms reported having had an outbreak of FMD in the previous 12–24 months, and only one farm reported

having had a recent outbreak of FMD. The sheep that were tested were from the three remaining farms, which had no reported occurrence of FMD. Farms with documented outbreaks of FMD either did not have sheep or, if they did, the sheep from these farms were not sampled. Further, although the OP samples taken from a few selected cattle were negative to FMD, the FMD antibody was detected in the cattle using the VIAA and the VN tests.

A few commenters cited the fact that the FMD virus is species adaptable and claim that this fact is not accounted for in the Argentine study. One commenter stated that, if the study had used a virus that was specifically adapted to llamas, more llamas would have become infected in the study and more llamas would have become carriers. We acknowledge that FMD viruses do tend to adapt to species. However, this tendency has not manifested itself with llamas and alpacas—there is no evidence that a llama/alpaca-adapted FMD virus exists. The use of an artificially created llama/alpaca-adapted FMD virus would not reflect actual conditions to which llamas and alpacas are exposed in the field.

Some commenters referred to a study done on Plum Island concerning FMD in llamas, claiming that the study had results which conflict with those of the Argentine study. The study referred to by commenters was published in 1990 by Lubroth, *et al.*, and was conducted in 1987 at the Foreign Animal Disease Diagnostic Laboratory (FADDL) on Plum Island. None of the results of the FADDL study conflict with the Argentine study. In particular, the FADDL study concluded that llamas have a high degree of resistance to FMD virus. Further, researchers in the FADDL study were unable to isolate the FMD virus in infected llamas beyond either the first week after inoculation or the first week after exposure to an inoculated animal. These results are consistent with the findings from the Argentine study.

One commenter also referred to an unpublished study on FMD in llamas which the commenter claims came to different conclusions than the Argentine study. The study to which this commenter refers was conducted by the Agricultural Research Service, U.S. Department of Agriculture, simultaneously with the FADDL study, also on Plum Island. The results of this study were never published because they were very similar to those of the FADDL study and because the FADDL study was more comprehensive. This study also had no results which conflict with the Argentine study.

Another commenter stated that the Argentine study should not serve as the basis for our rulemaking because it was not peer reviewed and was conducted in Argentina with minimal USDA–APHIS involvement. The study in Argentina was, in fact, planned and conducted as a cooperative effort between APHIS and the National Institute of Agricultural Technology in Argentina. Although the study has not been peer reviewed, the results of the study were presented at the 1993 annual conference of the United States Animal Health Association (USAHA), and a report of the study appears in the 1993 USAHA Proceedings.

Some commenters stated that APHIS should not permit increased numbers of llamas or alpacas to be imported from Chile because llama owners visiting Chile have reported a high incidence of genetic defects and a very limited supply of quality llamas available in Chile. However, the regulations in 9 CFR parts 92 and 94 are established pursuant to animal quarantine and related laws that generally provide authority to take action to prevent the introduction or dissemination of certain diseases. These laws do not provide authority to establish regulations based merely on factors related to genetics.

One commenter stated that a limited supply of quality llamas in Chile would mean that most llamas imported from Chile would probably be llamas that had previously been smuggled from Bolivia into Chile. New Zealand's experience importing Chilean llamas and alpacas contradicts this conclusion. New Zealand has imported more than 2,000 llamas and alpacas from Chile since 1988. There is no evidence that the movement of llamas and alpacas to New Zealand has encouraged the smuggling of llamas and alpacas from neighboring countries into Chile for exportation to New Zealand, and New Zealand has reported no problems with the quality of Chilean llamas or alpacas. This experience, combined with our determination that Chile's border control and surveillance has been adequate to prevent smuggling from neighboring countries, leads us to conclude that the commenter's concerns are unfounded.

Some commenters said that this rule should be considered a "major rule" (having an impact of more than $100 million annually), and stated that an initial regulatory flexibility analysis should be prepared because they believe the rule will have a significant economic impact on a substantial number of small entities. Several commenters offered scenarios resulting from this rule which would cause significant economic impact on llama breeders, most of which are small entities. For example, one commenter offered that, if there are 75,000 llamas currently in the United States, the rule crosses the impact threshold if the value of each llama is diminished on average by only $1,333. According to the commenter, adoption of this rule, with its prospect of unlimited importations of llamas and alpacas, could easily cause a drop in llama prices equivalent to an average of $1,333 per head.

The perception that this rule will lead to unlimited imports with a resulting decline in llama and alpaca values is not supported by our current information. As previously discussed in this rulemaking document, llamas and alpacas from Chile will undergo a quarantine of at least 30 days at an APHIS quarantine facility at a port listed in § 92.403. While allowing these animals to enter though a facility other than HSTAIC could allow greater numbers of llama and alpaca imports from Chile, this rule will not permit unlimited imports. Currently, the only animal import center that would be able to accommodate more than a few llamas and alpacas at a time is the New York Animal Import Center (NYAIC) in Newburgh, New York. Realistically, NYAIC could handle at most 1,200 llamas and alpacas per year. Keeping in mind that there are already over 70,000 llamas in the United States, we do not believe that the addition of 1,200 llamas per year would cause such a rapid decline in U.S. llama and alpaca prices as to have a significant adverse effect on the U.S. market.

Our research shows that import demands favor and will continue to favor high-quality llamas and alpacas. The U.S. llama and alpaca market has been in decline since about 1989. The market volatility exhibited by the U.S. llama industry, including extraordinarily high prices as well as dramatic price declines, is characteristic of a new and growing industry. However, the 1993 auction year saw solid prices and some very strong sales. In the Spring Celebration Sale, which was reported to have the highest averages for any consignment sale, the females averaged $9,185 and the males averaged $6,485.[1] Also, it was reported that, at a 1993 auction of llamas from Peru, the highest quality llamas were sold within 60 seconds. These reports, and others, indicate the growing ability of U.S. llama breeders to discern between superior and inferior animals. They also indicate the increase in

[1] *Llama Life*, Winter 1993–94, Number 28, pp. 1 and 34.

market maturity and greater selectivity on the part of breeders, resulting in firmer price levels. In short, according to market reports, prices seem to be stabilizing of their own accord. We expect that the long-term impact of importing more foreign breeding stock, which will increase selection and improve the domestic herd, will help stabilize and ultimately enhance llama and alpaca prices—not depress them.

One commenter noted that the proposal's regulatory flexibility analysis appears to relate solely to llamas, but that llama and alpaca statistics on number of animals, breeders, prices, and imports are very different. Our research indicates that the U.S. alpaca industry is in much the same position as the U.S. llama industry was in several years ago—a new and growing industry. The U.S. alpaca herd is considerably smaller than the U.S. llama herd, and alpacas command higher prices than llamas. However, we do not believe the impact of this rule on the U.S. alpaca industry will differ significantly from the impact on the U.S. llama industry for the reasons previously discussed in this rulemaking document. Most alpaca owners will be purchasing additional alpacas for breeding purposes, and the availability of high quality imported alpacas will benefit the industry by improving the domestic herd.

One commenter asked for a restriction which would limit the number of llamas and alpacas imported from Chile each year to 100 animals per importation and only two importations per year. The commenter suggested that this restriction be in effect for 5 years, after which time the economic stability of the U.S. llama industry could be reevaluated to determine if the market can handle an influx of Chilean llamas.

As stated previously in this rulemaking document, we do not expect this rule to result in importations of llamas and alpacas from Chile on a scale that would flood the U.S. market. Although we consider the economic impact of our regulations in accordance with Executive Order 12866 and the Regulatory Flexibility Act, we do not have statutory authority to establish regulations for the purpose of stabilizing the U.S. market for llamas and alpacas.

A few commenters disputed APHIS' assertion that the regulations concerning use of HSTAIC are excessively burdensome. Among the requirements for importing animals through HSTAIC (found in §§ 92.430 and 92.522), an importer must participate in a lottery to allocate space in the facility for each calendar year. In the past, we have received approximately 230 applications to use HSTAIC during a particular calendar year. Of the total number of applicants, only two or three may actually be able to use HSTAIC in a given year. Further, use of HSTAIC is expensive—it generally costs $1,092 per head for an importation of llamas or alpacas through HSTAIC. As cited in the proposed rule, importers will save approximately $700 per head by shipping llamas and alpacas though a U.S. animal import center other than HSTAIC.

The requirements for use of HSTAIC are not excessively burdensome when disease concerns warrant the high security quarantine offered there. However, given the FMD-free status of Chile and the other countries listed in § 94.1(d)(1), and given the findings of the Argentine study on FMD in llamas and alpacas, the requirements are in excess of those that are necessary to prevent the introduction of communicable diseases of livestock into the United States.

One commenter cited a recent revision of the rules regarding the use of HSTAIC, and suggested that these revisions may ameliorate any perceived logistical difficulty. The revision cited was published in the **Federal Register** as a final rule on March 1, 1994 (59 FR 9617–622, Docket No. 91–65–2), with an effective date of August 31, 1994. The final rule amended the regulations (1) To require a $32,000 deposit for each lottery application; (2) by changing the application and lottery dates; (3) by requiring lottery winners to pay the costs of maintaining HSTAIC for certain periods when it is reserved for the lottery winner and not available to other importers; (4) to state that APHIS will not accept applications for the lottery from persons with outstanding debts to APHIS; and (5) to discontinue the practice of "tiering" the lottery that previously gave certain animals priority to use HSTAIC. These changes were promulgated to discourage frivolous applications, to help ensure that there is adequate time to assemble necessary information prior to each lottery, and to minimize financial losses incurred by APHIS. However, the basic conditions for the use of HSTAIC remain unchanged—importers must apply for space in HSTAIC, space is very limited, only a small percentage of applicants are granted use of the facilities, and use of HSTAIC is expensive. In contrast, other U.S. animal import centers such as NYAIC can handle multiple importations at one time, do not require importers to go through a lottery in order to reserve space, and are not as expensive as HSTAIC.

One commenter suggested that regulations concerning the importation of llamas and alpacas should be placed in a separate subpart in 9 CFR part 92, so that llamas and alpacas could be regulated separately from other ruminants. We have made no changes based on this comment. All research conducted by APHIS or reviewed by APHIS indicates that, at this time, there is no reason to regulate llamas and alpacas separately from other ruminants.

Another commenter said that APHIS should have conducted a quantitative risk assessment in deciding whether to remove the requirement for quarantine at HSTAIC. The commenter also requested that APHIS promulgate the risk assessment criteria it plans to follow so that interested parties would have an opportunity to supply relevant information to APHIS for consideration. A risk assessment was prepared for this rule. It focuses on the risk of FMD being introduced into the United States by llamas or alpacas imported from Chile under this rule. The risk assessment indicates that there is a negligible risk of FMD being introduced into the United States under this rule.

One commenter determined that under the National Environmental Policy Act (NEPA) an environmental impact statement should be prepared for this rule. In response to this comment, APHIS has prepared an environmental assessment, which resulted in a finding of no significant impact concerning the provisions of this rule change. Specifically, the finding of no significant impact concluded that "(i)mplementation of the proposed action should not increase the likelihood of introduction of FMD into the United States or have any significant impact on human health and safety or the health of domestic animals or wildlife."

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

Executive Order 12866 and Regulatory Flexibility Act

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

Current regulations require llamas and alpacas from Austria, Belgium, Chile, France, Germany, Hungary, The Netherlands, Poland, Republic of Korea, and Spain to enter the United States through HSTAIC, where they must remain quarantined for at least 40 days.

Costs depend on the size of the shipment, but are generally $1,092 per head. Competition for the quarantine space at HSTAIC is intense. Import requests are awarded on a lottery basis. Since 1990, when this lottery system became effective, three importations of llamas and alpacas have occurred.

The greater ease of importing could attract persons into the business of importing llamas and alpacas from Chile into the United States. (We are not aware of any llamas and alpacas in other countries declared free from FMD on or after September 28, 1990, that are available for export.) Based on past requests for the use of HSTAIC, imports could reach 900 llamas and alpacas per year, although we consider half that number more realistic. This rule will save importers of Chilean llamas and alpacas at least $592,488 for a shipment of 900 animals and $296,244 for a shipment of 450. For purposes of this analysis, savings are calculated using shipments of 450 animals because HSTAIC can accommodate no more than 450 llamas and alpacas per shipment. The rule will be beneficial to importers of Chilean llama and alpacas, who will save approximately $700 per llama or alpaca imported through an animal import center other than HSTAIC. The decreases in price and quarantine time, along with greater access to quarantine facilities, will remove some barriers to entry into the import market. We estimate between 15 and 20 importers, all small entities, could be affected by this rule.

The potential effect on breeders of llamas and alpacas in the United States depends on the demand elasticity of the market. Independent of this rulemaking, the domestic price for llamas and alpacas has been decreasing during the past few years, and we expect prices to continue to fall. Current market values for females range from $5,000 to $8,000, but have gone as low as $2,000. These prices are down from the 1989 values of $7,500 to $10,000. Prices for males used as pets or pack animals have remained relatively steady at $500 to $1,500. Prices for stud-quality males were not available. Current figures are not available, but in 1989 approximately 99 percent of the llama and alpaca breeders in the United States were believed to be small entities. With prices decreasing and llama and alpaca births rising annually in the United States as a result of forces unrelated to the regulatory changes made in this document, we do not expect our rule to significantly affect a substantial number of breeders.

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

Executive Order 12778

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been submitted for approval to the Office of Management and Budget.

List of Subjects

9 CFR Part 92

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

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 92 and 94 are amended as follows:

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

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

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

§ 92.405 [Amended]

2. In § 92.405, paragraph (a), the phrase ", and 92.435 of this part" is removed.

§ 92.411 [Amended]

3. In § 92.411, paragraph (b)(1), the first sentence, the phrase "other than llamas and alpacas from countries listed in § 94.1(d) of this chapter, and" is removed.

4. In paragraph (b)(2) of § 92.411, the last sentence is removed.

§ 92.435 [Amended]

5 Section 92.435 is removed.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

6. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

7. In § 94.1, paragraph (d) is removed.

Done in Washington, DC, this 11th day of October 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–25612 Filed 10–14–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AGL–21]

Establishment of Class E Airspace; Muskegon, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Muskegon County Airport, Muskegon, MI. Presently, this area is designated as Class D airspace when the associated air traffic control tower is operational. However, controlled airspace to the surface is needed when the control tower located at this airport is closed. The intended affect of this action is to provide adequate Class E airspace for instrument flight rule (IFR) operations when the control tower is closed.

EFFECTIVE DATE: 0901 UTC, December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Angeline Perri, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7571.

SUPPLEMENTARY INFORMATION:

History

On July 12, 1994, the FAA proposed to amend part 71 of the Federal Aviation

Regulations (14 CFR part 71) to establish Class E airspace at Muskegon County Airport, Muskegon, MI (59 FR 35492). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Muskegon County Airport, Muskegon, MI. Currently, the airspace is designated as Class D when the associated air traffic control tower is in operation. However, controlled airspace to the surface is needed when the control tower located at this airport is closed. The intended affect of this action is to provide adequate Class E airspace for IFR operations when the control tower is closed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Muskegon, MI [New]
Muskegon County Airport, MI
(lat. 43°10'10" N., long. 86°14'18" W.)

Within a 4.2-mile radius of Muskegon County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter, be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on September 30, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–25561 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–AEA–1]

Alteration of Jet Route J–223 and Establishment of Jet Route J–132; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters Jet Route J–223 and establishes Jet Route J–132 located in New Jersey and New York. This action deletes a section of Jet Route J–223 from the intersection of LaGuardia (LGA) Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) 310° True (T) 322° Magnetic (M) radial and the Elmira (ELM) VOR/DME 110°(T) 119°(M) radial to the Elmira VOR/DME. In addition, a new jet route, J–132, will be established from the Elmira VOR/DME to the Huguenot Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC). Altering J–223 and establishing J–132 will enhance the flow of air traffic and simplify routing in the vicinity of Elmira, NY.

EFFECTIVE DATE: 0901 UTC, December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On October 26, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to delete a segment of Jet Route J–223 and to establish Jet Route J–132 from Elmira VOR/DME to Huguenot VORTAC (58 FR 57571).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet routes are published in paragraph 2004 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The jet routes listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters Jet Route J–223 by deleting a section of that jet route from the intersection of LaGuardia VOR/DME 310° radial and the Elmira VOR/DME 110° radial to the Elmira VOR/DME. In addition, this rule establishes a new jet route, J–132, from the intersection of Elmira VOR/DME 110° radial and the Huguenot VORTAC 291° radial to the Huguenot VORTAC. This action is necessary to simplify routing and expedite the flow of air traffic.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–223 [Revised]

From LaGuardia, NY, to INT LaGuardia 310° and Elmira, NY, 110° radials.

* * * * *

J–132 [New]

From Elmira, NY, to Huguenot, NY.

* * * * *

Issued in Washington, DC, on October 3, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–25567 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 97

[Docket No. 27921; Amdt. No. 1625]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments require making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (air).

Issued in Washington, DC on September 23, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

[Effective October 14, 1994]

FDC date	State	City	Airport	FDC No.	SIAP
8/25/94	NE	Norfolk	Norfolk/Karl Stefan Memorial	FDC 4/4843	VOR or GPS rwy 13, AMDT 6.
8/25/94	NE	Norfolk	Norfolk/Karl Stefan Memorial	FDC 4/4845	VOR or GPS rwy 31, AMDT 6.
8/26/94	NE	Norfolk	Norfolk/Karl Stefan Memorial	FDC 4/5332	VOR or GPS rwy 19, AMDT 6.
8/31/94	AK	Galena	Galena	FDC 4/4964	VOR rwy 25, AMDT 9C.
8/31/94	FL	Miami	Opa Locka	FDC 4/4973	ILS rwy 9L, AMDT 2.
8/31/94	LA	Many	Hart	FDC 4/4959	NDB rwy 12, AMDT 4.
8/31/94	WI	Merrill	Merrill Muni	FDC 4/4965	NDB rwy 16, AMDT 6.
8/31/94	WI	Merrill	Merrill Muni	FDC 4/4966	NDB or GPS rwy 7, AMDT 2.
9/9/94	AK	Kodiak	Kodiak	FDC 4/5212	NDB rwy 25, AMDT 2.
9/9/94	AK	Kodiak	Kodiak	FDC 4/5213	VOR or TACAN or GPS rwy 25, AMDT 4.
9/14/94	LA	Alexandria	Alexandria Intl	FDC 4/5288	VOR or GPS rwy 14 orig.
9/14/94	WI	Land O'Lakes	Kings Land O'Lakes	FDC 4/5293	NDB or GPS rwy 14, AMDT 8.
9/15/94	OH	Cadiz	Harrison County	FDC 4/5329	VOR–A orig.
9/19/94	MA	Worcester	Worcester Muni	FDC 4/5358	NDB or GPS rwy 11, AMDT 19.

[FR Doc. 94–25562 Filed 10–14–94; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27920; Amdt. No. 1624]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal

Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impracticable. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Ts not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on September 23, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective December 8, 1994

Carroll, IA, Arthur N. Neu, NDB RWY 31, Amdt 6

Lincoln Park, NJ, Lincoln Park, NDB RWY 1, Amdt 2

Reedsville, PA, Mifflin County, LOC RWY 6, Amdt 7

Springfield, VT, Hartness State (Springfield), NDB OR GPS–A, Amdt 5

Springfield, VT, Hartness State (Springfield), LOC–A, Amdt 4

Springfield, VT, Hartness State (Springfield), LOC/DME RWY 5, Amdt 3

Effective November 10, 1994

Seymour, IN, Freeman Muni, LOC RWY 5, Amdt 3

Seymour, IN, Freeman Muni, NDB RWY 5, Amdt 3

Wichita, KS, Colonel James Jabara, VOR–A, Amdt 2

Eunice, LA, Eunice, VOR/DME–A, Amdt 2

Lakewood, NJ, Lakewood, VOR RWY 6, Amdt 4

Grove City, PA, Grove City, VOR OR GPS–A, Amdt 5

Pottstown, PA, Pottstown Limerick, NDB RWY 28, Orig

State College, PA, University Park, VOR OR GPS–B, Amdt 9

State College, PA, University Park, ILS RWY 24, Amdt 6

State College, PA, University Park, VOR/DME RNAV OR GPS RWY 6, Amdt 6

Madisonville, TX, Madisonville Muni, VOR/DME OR GPS RWY 18, Amdt 1

Morrisville, VT, Morrisville-Stowe State, NDB or GPS–B, Amdt 1

Morgantown, WV, Morgantown Muni-Walter L. Bill Hart Field, NDB OR GPS RWY 18, Amdt 15, CANCELLED

Effective October 13, 1994

Newport, OR, Newport Muni, NDB RWY 16, Orig

Juneau, WI, Dodge County, LOC RWY 26, Orig

Juneau, WI, Dodge County, NDB RWY 2, Amdt 10

Juneau, WI, Dodge County, NDB RWY 20, Amdt 8

Effective Upon Publication

Hilton Head Island, SC, Hilton Head, LOC/DME RWY 21, Amdt 2

Note: The FAA published an Amendment in Docket No. 27900, Amdt. No. 1622 to Part 97 of the Federal Aviaiton Regulations (Vol. 59 FR, No. 181, Page 48169; dated Tuesday, September 20, 1994) under Section 97.27 Effective 10 Nov 94, Which is hereby amended as follows:

Johnstown, PA, Johnstown-Cambria County, ILS RWY 33, Amdt 3 PROPOSED EFF 10 NOV 94

[FR Doc. 94–25563 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27922; Amdt. No. 1626]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localized type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on September 23, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective December 8, 1994

Delta Junction/Fort Greely, AK, Allen AAF, VOR/DME or TACAN or GPS RWY 18, Amdt 2C

Delta Junction/Fort Greely, AK, Allen AAF, NDB or GPS–A, Amdt 3B
Galena, AK, Galena, VOR or GPS RWY 25, Amdt 9C
Shishmaref, AK, New Shishmaref, NDB or GPS RWY 5, Orig–B
Shishmaref, AK, New Shishmaref, NDB or GPS RWY 23, Orig–B
Soldotna, AK, Soldotna, VOR or GPS–A, Amdt 5
Soldotna, AK, Soldotna, NDB or GPS RWY 25, Amdt 1
Soldotna, AK, Soldotna, RNAV or GPS RWY 7, Amdt 3
Andalusia-Opp, AL, Andalusia-Opp, NDB or GPS–A, Amdt 2
Anniston, AL, Anniston Metropolitan, NDB or GPS RWY 05, Amdt 2
Birmingham, AL, Birmingham Intl, NDB or GPS RWY 23, Amdt 16
Birmingham, AL, Birmingham Intl, NDB or GPS RWY 5, Amdt 30
Haleyville, AL, Posey Field, VOR/DME or GPS RWY 18, Amdt 3A
Haleyville, AL, Posey Field, VOR/DME or GPS–A, Amdt 3A
Jasper, AL, Walker County—Bevill Field, VOR/DME or GPS–A, Amdt 2
Sylacauga, AL, Merkel Field Sylacauga Muni, NDB or GPS–A, Amdt 2
Troy, AL, Troy Muni, NDB or GPS RWY 7, Amdt 10A
Arkadelphia, AR, Arkadelphia Muni, NDB or GPS RWY 4, Amdt 5
Ask Flat, AR, Cherokee Village, NDB or GPS RWY 4, Orig
Bentonville, AR, Bentonville Muni/ Louise M. Thadden Field, VOR or GPS–A, Amdt 10
Bentonville, AR, Bentonville Muni/ Louise M. Thadden Field, VOR/DME or GPS–B, Amdt 3
Phoenix, AZ, Phoenix Sky Harbor Intl, VOR/DME or GPS RWY 8R, Amdt 1
Phoenix, AZ, Phoenix Sky Harbor Intl, VOR/DME or GPS RWY 26L, Amdt 1
Show Low, AZ, Show Low Muni, NDB or GPS–A, Orig–A
Chino, CA, Chino, VOR or GPS–B, Amdt 3
Chino, CA, Chino, VOR or GPS–C, Amdt 1
El Monte, CA, El Monte, VOR/DME or GPS–B, Amdt 2
El Monte, CA, El Monte, VOR or GPS–A, Amdt 5A
El Monte, CA, El Monte, NDB or GPS–C, Orig
San Francisco, CA, San Francisco Intl, VOR or GPS RWY 19L, Amdt 8
San Francisco, CA, San Francisco Intl, VOR or GPS–B, Amdt 5B
San Jose, CA, San Jose International, VOR/DME RNAV or GPS RWY 30L, Orig
San Jose, CA, San Jose International, VOR or GPS RWY 12R, Amdt 2
San Luis Obispo, CA, San Luis Obispo County—McChesney Field, VOR or TACAN or GPS–A, Amdt 6
Visalia, CA, Visalia Muni, VOR or GPS RWY 12, Amdt 5
Visalia, CA, Visalia Muni, NDB or GPS RWY 30, Amdt 3
Alamosa, CO, San Luis Valley Regional/ Bergman Field, VOR/DME or GPS–B, Amdt 4
Alamosa, CO, San Luis Valley Regional/ Bergman Field, VOR or GPS–A. Amdt 6
Gunnison, CO, Gunnison County, VOR or GPS–A, Amdt 7
Bonifay, FL, Tri-County, NDB or GPS–A, Orig
Crestview, FL, Bob Sikes, VOR or GPS–A, Amdt 10
Crestview, FL, Bob Sikes, NDB or GPS RWY 17, Amdt 2
Fort Myers, FL, Southwest Florida Intl, VOR/DME or TACAN or GPS RWY 24, Orig
Fort Myers, FL, Southwest Florida Intl, NDB or GPS RWY 6, Amdt 4
Panama City, FL, Panama City—Bay County Intl, VOR or TACAN or GPS RWY 14, Amdt 15A
Panama City, FL, Panama City—Bay County Intl, VOR or TACAN or GPS RWY 32, Amdt 10A
Panama City, FL, Panama City—Bay County Intl, VOR or TACAN or GPS–A, Amdt 13B
Perry, FL, Perry-Foley, RNAV or GPS RWY 18, Amdt 1
Perry, FL, Perry-Foley, NDB or GPS RWY 36, Amdt 3
Tampa, FL, Peter O'Knight, NDB or GPS RWY 3, Amdt 10A
Tampa, FL, Peter O'Knight, NDB or GPS–A, Orig
Bainbridge, GA, Decatur County Industrial Airpark, VOR or GPS–A, Amdt 3
Bainbridge, GA, Decatur County Industrial Airpark, NDB or GPS RWY 27, Orig
Brunswick, GA, Glynco Jetport, VOR/ DME or GPS–B, Amdt 6B
Brunswick, GA, Glynco Jetport, NDB or GPS RWY 7, Amdt 9B
Brunswick, GA, Glynco Jetport, RNAV or GPS RWY 25, Amdt 6B
Dublin, GA, W.H. "Bud" Barron, VOR or GPS–A, Amdt 3A
Dublin, GA, W.H. "Bud" Barron, NDB or GPS RWY 2, Amdt 1
Dublin, GA, W.H. "Bud" Barron, RNAV or GPS RWY 20, Amdt 2
Eastman, GA, Eastman—Dodge County, VOR/DME or GPS–A, Amdt 5
Eastman, GA, Eastman—Dodge County, RNAV or GPS RWY 2, Amdt 2
Rome, GA, Richard B. Russell, VOR/ DME or GPS RWY 1, Amdt 8A
Rome, GA, Richard B. Russell, VOR/ DME or GPS RWY 19, Amdt 7
Rome, GA, Richard B. Russell, NDB or GPS–A, Amdt 6
Sandersville, GA, Kaolin Field, NDB or GPS RWY 12, Amdt 3
Sandersville, GA, Kaolin Field, VOR/ DME or GPS–A, Amdt 4
Lihue, HI, Lihue, VOR or GPS–A, Amdt 3
Clarinda, IA, Schenck Field, NDB or GPS or GPS–A, Amdt 4
Greenfield, IA, Greenfield Muni, NDB or GPS RWY 32, Amdt 1
Hampton, IA, Hampton Muni, VOR/ DME or GPS RWY 35, Orig–A
Hampton, IA, Hampton Muni, RNAV or GPS RWY 17, Amdt 1A
Maquoketa, IA, Maquoketa Muni, RNAV or GPS RWY 33, Orig
Maquoketa, IA, Maquoketa Muni, NDB or GPS RWY 15, Amdt 2
Oskaloosa, IA, Oskaloosa Muni, VOR/ DME or GPS RWY 31, Amdt 2A
Oskaloosa, IA, Oskaloosa Muni, NDB or GPS RWY 22, Amdt 2A
Red Oak, IA, Red Oak Muni, VOR/DME or GPS–A, Amdt 4
Red Oak, IA, Red Oak Muni, NDB or GPS RWY 17, Amdt 7
Washington, IA, Washington Muni, VOR/DME RNAV or GPS RWY 31, Amdt 3A
Washington, IA, Washington Muni, VOR/DME or GPS–A, Amdt 3A
Nampa, ID, Nampa Muni, NDB or GPS RWY 11, Amdt 2
Pocatello, ID, Pocatello Regional, NDB or GPS RWY 21, Amdt 18
Chicago/Waukegan, IL, Waukegan Regional, NDB or GPS RWY 23, Amdt 1
Chicago/Waukegan, IL, Waukegan Regional, RNAV or GPS RWY 5, Amdt 1
Danville, IL, Vermilion County, RNAV or GPS RWY 34, Amdt 4
Decatur, IL, Decatur, VOR or GPS RWY 36, Amdt 14
Decatur, IL, Decatur, NDB or GPS RWY 6, Amdt 5
Dixon, IL, Dixon Muni-Charles R. Walgreen Field, VOR or GPS–A, Amdt 8
Paxton, IL, Paxton, VOR or GPS RWY 18, Amdt 1
Pekin, IL, Pekin Muni, VOR or GPS–A, Amdt 5
Pekin, IL, Pekin Muni, RNAV or GPS RWY 9, Amdt 4
Rockford, IL, Greater Rockford, VOR or GPS RWY 13, Amdt 4
Rockford, IL, Greater Rockford, NDB or GPS RWY 1, Amdt 25
Anderson, IN, Anderson Muni, NDB or GPS RWY 30, Amdt 5
Anderson, IN, Anderson Muni, VOR or GPS–A, Amdt 8
Michigan City, IN, Michigan City, VOR or GPS–A, Amdt 3
Monticello, IN, White County, NDB or GPS RWY 36, Amdt 4
Shelbyville, IN, Shelbyville Muni, VOR or GPS RWY 18, Amdt 8
Tell City, IN, Perry County Muni, VOR or GPS RWY 31, Amdt 4

Tell City, IN, Perry County Muni, NDB or GPS RWY 13, Orig
Terre Haute, IN, Hulman Regional, NDB or GPS RWY 5, Amdt 18
Valparaiso, IN, Porter County Muni, NDB or GPS RWY 27, Amdt 5A
Valparaiso, IN, Porter County Muni, RNAV or GPS RWY 9, Amdt 2A
Belleville, KS, Belleville Muni, VOR/DME or GPS–A, Amdt 2
Belleville, KS, Belleville Muni, NDB or GPS RWY 18, Amdt 4
Belleville, KS, Belleville Muni, NDB or GPS RWY 36, Amdt 4
Parsons, KS, Tri-City, VOR or GPS RWY 13, Amdt 4
Parsons, KS, Tri-City, NDB or GPS RWY 17, Amdt 8
Parsons, KS, Tri-City, NDB or GPS RWY 35, Amdt 5
Phillipsburg, KS, Phillipsburg Muni, NDB or GPS RWY 31, Amdt 6
St Francis, KS, Cheyenne County Muni, NDB or GPS RWY 31L, Amdt 1
Topeka, KS, Philip Billard Muni, VOR or GPS RWY 22, Amdt 19
Topeka, KS, Philip Billard Muni, NDB or GPS RWY 13, Amdt 28
Topeka, KS, Philip Billard Muni, RNAV or GPS RWY 18, Amdt 6
Danville, KY, Stuart Powell Field, NDB or GPS–A, Amdt 6
Falmouth, KY, Gene Snyder, VOR or GPS–A, Amdt 2
Flemingsburg, KY, Fleming-Mason, VOR/DME or GPS–A, Amdt 4
Springfield, KY, Lebanon-Springfield, VOR/DME or GPS RWY 11, Amdt 3
Alexandria, LA, Alexandria Esler Regional, NDB or GPS RWY 26, Amdt 7C
Bastrop, LA, Morehouse Memorial, VOR/DME or GPS–A, Amdt 8
Bastrop, LA, Morehouse Memorial, NDB or GPS RWY 34, Amdt 5
Eunice, LA, Eunice, VOR/DME or GPS–A, Amdt 1
New Orleans, LA, Lakefront, VOR/DME or GPS RWY 36L, Amdt 6
New Orleans, LA, Lakefront, VOR or GPS–A, Amdt 16
New Orleans, LA, Lakefront, VOR or GPS–B, Amdt 8
Chatham, MA, Chatham Muni, NDB or GPS–A, Orig
Gardner, MA, Gardner Muni, VOR or GPS–A, Amdt 5
Lawrence, MA, Lawrence Muni, NDB or GPS RWY 5, Amdt 4
Mansfield, MA, Mansfield Muni, NDB or GPS RWY 32, Amdt 4
Ocean City, MD, Ocean City Muni, VOR or GPS–A, Amdt 1
Westminster, MD, Clearview Airpark, VOR or GPS–A, Amdt 3
Greenville, ME, Greenville, NDB or GPS RWY 14, Amdt 4
Greenville, ME, Greenville Seaplane Base, NDB or GPS–A, Amdt 4
Norridgewock, ME, Central Maine Arpt of Norridgewock, VOR/DME or GPS RWY 3, Amdt 1
Davison, MI, Athelone Williams Memorial, VOR or GPS RWY 8, Amdt 2
Dowagiac, MI, Dowagiac Municipal, VOR/DME RNAV or GPS RWY 27, Amdt 6
Dowagiac, MI, Dowagiac Municipal, VOR or GPS–A, Amdt 9
Fremont, MI, Fremont Muni, VOR or GPS RWY 36, Amdt 6A
Fremont, MI, Fremont Muni, VOR or GPS–A, Amdt 10A
Grand Haven, MI, Grand Haven Memorial Airpark, VOR/DME RNAV or GPS RWY 27, Amdt 5
Grand Haven, MI, Grand Haven Memorial Airpark, VOR or GPS–A, Amdt 15
Grand Ledge, MI, Abrams Muni, VOR or GPS–A, Amdt 5
Hastings, MI, Hastings, VOR or GPS–A, Orig
Sparta, MI, Sparta, VOR/DME RNAV or GPS RWY 24, Amdt 2
Sparta, MI, Sparta, VOR or GPS–A, Amdt 2A
Ely, MN, Ely Muni, VOR or GPS RWY 12, Amdt 5B
Ely, MN, Ely Muni, VOR or GPS RWY 30, Amdt 5B
Faribault, MN, Faribault Muni, VOR or GPS–A, Amdt 3a
Faribault, MN, Faribault Muni, VOR/DME RNAV or GPS RWY 12, Amdt 3A
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, NDB or GPS RWY 31, Orig
Glenwood, MN, Glenwood Muni, VOR or GPS RWY 33, Amdt 1
Grand Marais, MN, Grand Marais/Cook County, NDB or GPS RWY 27, Orig
Litchfield, MN, Litchfield Muni, VOR/DME RNAV or GPS RWY 31, Amdt 1
Litchfield, MN, Litchfield Muni, VOR or GPS–A, Amdt 1/
Warroad, MN, Warroad Intl—Swede Carlson Field, NDB or GPS RWY 31, Orig
Boonville, MO, Jesse Viertel Memorial, VOR or GPS–A, Amdt 4A
Boonville, MO, Jesse Viertel Memorial, NDB or GPS RWY 18, Amdt 9
Cabool, MO, Cabool Memorial, VOR/DME or GPS RWY 21 Amdt 2
Chillicothe, MO, Chillicothe Muni, NDB or GPS RWY 14, Amdt 7
Farmington, MO, Farmington Regional, VOR/DME or GPS–A, Orig
Farmington, MO, Farmington Regional, NDB or GPS RWY 2, Amdt 2A
Farmington, MO, Farmington Regional, NDB or GPS RWY 20, Amdt 2A
Fredericktown, MO, Fredericktown Muni, VOR/DME or GPS RWY 1, Amdt 2
Fredericktown, MO, Fredericktown Muni, VOR or GPS RWY 19, Orig
Fulton, MO, Elton Hensley Memorial, VOR or GPS–A, Amdt 3
Fulton, MO, Elton Hensley Memorial, NDS or GPS RWY 23, Amdt 1A
Fulton, MO, Elton Hensley Memorial, RNAV or GPS RWY 5, Amdt 1
Booneville/Baldwyn, MS, Booneville/Baldwyn, VOR/DME or GPS–A, Orig
Brookhaven, MS, Brookhaven-Lincoln County, VOR/DME or GPS–A, Amdt 8
Brookhaven, MS, Brookhaven-Lincoln County, NDS or GPS, RWY 22, Amdt 3
Mc Comb, MS, Mc Comb/Pike County/John E. Lewis Field, VOR/DME or GPS–A, Amdt 7
Mc Comb, MS, Mc Comb/Pike County/John E. Lewis Field, NDB or GPS RWY 15, Amdt 4
Okolona, MS, Okolona Muni-Richard Stovall Field, VOR/DME or GPS RWY 18, Amdt 5
Tupelo, MS, Tupelo Municipal-C.D. Lemons, NDB or GPS RWY 36, Amdt 4
Yazoo City, MS, Yazoo County, VOR/DME or GPS RWY 17, Orig
Yazoo City, MS, Yazoo County, VOR/DME or GPS RWY 35, Orig
Butte, MT, Bert Mooney, VOR/DME or GPS–A, Amdt 3A
Butte, MT, Bert Mooney, VOR or GPS–B, Amdt 1A
Helena, MT, Helena Regional, VOR/DME or GPS–B, Amdt 6
Helena, MT, Helena Regional, NDB or GPS–D, Amdt 2
Wolf Point, MT, L M Clayton, NDB or GPS RWY 28, Amdt 1
Edenton, NC, Edenton Muni, NDB or GPS RWY 5, Amdt 4A
Edenton, NC, Edenton Muni, NDB or GPS RWY 19, Amdt 5A
Lexington, NC, Lexington Muni, VOR/DME or GPS RWY 8, Amdt 6
Lexington, NC, Lexington Muni, VOR or GPS–A, Amdt 4A
Liberty, NC, Causey, VOR or GPS RWY 2, Amdt 3
Lincolnton, NC, Lincoln County, NDB or GPS RWY 23, Amdt 1
Manteo, NC, Dare County Regional, VOR or GPS RWY 16, Amdt 3
Manteo, NC, Dare County Regional, NDB or GPS RWY 4, Amdt 4
Tarboro, NC, Tarboro-Edgecombe, VOR/DME or GPS RWY 27, Amdt 1
Wadesboro, NC, Anson County, VOR/DME or GPS–A, Amdt 1A
Wadesboro, NC, Anson County, NDB or GPS RWY 16, Amdt 1A
Bismarck, ND, Bismarck Muni, VOR or GPS–A, Amdt 19
Bismarck, ND, Bismarck Muni, NDB or GPS RWY 31, Amdt 30
Wahpeton, ND, Harry Stern, NDB or GPS RWY 33, Amdt 4

Gothenburg, NE, Quinn Field, VOR or GPS–A, Amdt 1
Gothenburg, NE, Quinn Field, NDB or GPS RWY 32, Amdt 1
Grant, NE, Grant Muni, NDB or GPS RWY 15, Amdt 2
Grant, NE, Grant Muni, NDB or GPS RWY 33, Amdt 2
Hastings, NE, Hastings Muni, VOR or GPS RWY 4, Amdt 5
Hastings, NE, Hastings Muni, VOR or GPS RWY 14, Amdt 16
Hastings, NE, Hastings Muni, VOR or GPS RWY 32, Amdt 13
Hebron, NE, Hebron Muni, NDB or GPS RWY 12, Amdt 2
Imperial, NE, Imperial Muni, NDB or GPS RWY 31, Amdt 1
Manchester, NH, Manchester, VOR/DME RNAV or GPS RWY 6, Amdt 3
Manchester, NH, Manchester, VOR/DME or GPS RWY 17, Orig
Blairstown, NJ, Blairstown, VOR or GPS RWY 25, Amdt 1
Mount Holly, NJ, South Jersey Regional, VOR or GPS RWY 26, Amdt 2
Ocean City, NJ, Ocean City Muni, VOR or GPS RWY 6, Amdt 1
Old Bridge, NJ, Old Bridge, VOR or GPS RWY 24, Amdt 3
Pittstown, NJ, Alexandria, VOR or GPS RWY 8, Amdt 1
Pittstown, NJ, Sky Manor, VOR or GPS RWY 7, Amdt 2A
Lovington, NM, Lea County-Zip Franklin Memorial, RNAV or GPS RWY 3, Orig
Socorro, NM, Socorro Muni, VOR/DME or GPS–A, Orig
Socorro, NM, Socorro Muni, NDB or GPS RWY 15, Orig
Tonopah, NV, Tonopah, VOR or GPS–A, Amdt 3A
Albany, NY, Albany County, VOR/DME or GPS RWY 1, Amdt 10
Albany, NY, Albany County, VOR or GPS RWY 19, Amdt 19
Fishers Island, NY, Elizabeth Field, VOR or GPS–A, Amdt 5
Islip, NY, Long Island Mac Arthur, NDB or GPS RWY 6, Amdt 18
Jamestown, NY, Chautauqua County/Jamestown, VOR/DME or GPS RWY 7, Amdt 3
Jamestown, NY, Chautauqua County/Jamestown, VOR or GPS RWY 25, Amdt 7
Jamestown, NY, Chautauqua County/Jamestown, VOR/DME RNAV or GPS RWY 13, Amdt 3
Jamestown, NY, Chautauqua County/Jamestown, VOR/DME RNAV or GPS RWY 31, Amdt 2
Bowling Green, OH, Wood County, VOR/DME RNAV or GPS RWY 27, Amdt 1
Bowling Green, OH, Wood County, VOR or GPS RWY 18, Amdt 12
Bryan, OH, Williams County, NDB or GPS–A, Amdt 5
Bucyrus, OH, Port Bucyrus-Crawford County, VOR or GPS RWY 22, Amdt 3
Cadiz, OH, Harrison County, VOR or GPS–A, Orig
Findlay, OH, Findlay, VOR or GPS RWY 25, Amdt 4
Findlay, OH, Findlay, VOR or GPS RWY 36, Amdt 5A
Hamilton, OH, Hamilton-Fairfield, NDB or GPS–A, Amdt 1
Harrison, OH, Cincinnati West, VOR or GPS RWY 18, Amdt 1
Mount Vernon, OH, Knox County, VOR/DME RNAV or GPS RWY 10, Amdt 2
Mount Vernon, OH, Knox County, VOR/DME RNAV or GPS RWY 28, Amdt 2
Mount Vernon, OH, Knox County, VOR or GPS–A, Amdt 7
Mt Gilead, OH, Morrow County, VOR or GPS–A, Amdt 3
Napoleon, OH, Henry County, VOR or GPS RWY 28, Amdt 3A
New Lexington, OH, Perry County, VOR/DME or GPS RWY 26, Amdt 1
New Philadelphia, OH, Harry Clever Field, VOR or GPS–A, Orig–A
Norwalk, OH, Norwalk-Huron County, VOR or GPS–A, Amdt 5
Oklahoma City, OK, Clarence E Page Muni, VOR/DME RNAV or GPS RWY 17R, Amdt 1
Oklahoma City, OK, Clarence E Page Muni, VOR/DME RNAV or GPS RWY 35L, Amdt 1
Oklahoma City, OK, Clarence E Page Muni, VOR or GPS–B, Amdt 1
Poteau, OK, Robert S. Kerr, VOR/DME or GSP RWY 36, Amdt 3
Sand Springs, OK, William R. Pogue Muni, VOR or GPS–A, Amdt 1A
Sand Springs, OK, William R. Pogue Muni, NDB or GPS RWY 35, Amdt 2
Seminole, OK, Seminole Muni, NDB or GPS RWY 16, Amdt 2
Woodward, OK, West Woodward, VOR/DME or GPS–A, Amdt 6
Woodward, OK, West Woodward, NDB or GPS RWY 17, Amdt 3
Albany, OR, Albany Muni, VOR/DME or GPS–A, Amdt 3
Lakeview, OR, Lake County, NDB or GPS–A, Amdt 2
McMinnville, OR, McMinnville Muni, VOR/DME or GPS–B, Amdt 5
McMinnville, OR, McMinnville Muni, NDB or GPS RWY 22, Amdt 2
Clearfield, PA, Clearfield-Lawrence, VOR or GPS RWY 30, Amdt 4
Doylestown, PA, Doylestown, VOR or GPS RWY 23, Amdt 6
Ebensburg, PA, Ebensburg, VOR or GPS–A, Amdt 6
Factoryville, PA, Seamans Field, VOR or GPS–A, Amdt 1
Greenville, PA, Greenville Muni, VOR or GPS–A, Amdt 1
Meadville, PA, Port Meadville, VOR or GPS RWY 7, Amdt 6
Monongahela, PA, Rostraver, VOR or GPS–A, Amdt 4A
Titusville, PA, Titusville, VOR or GPS–A, Amdt 4
Wellsboro, PA, Grand Canyon State, VOR or GPS–A, Amdt 4
Allendale, SC, Allendale County, VOR or GPS–A, Amdt 4
Barnwell, SC, Barnwell County, NDB or GPS–A, Orig
Cheraw, SC, Cheraw Muni, VOR/DME or GPS RWY 7, Amdt 1
Cheraw, SC, Cheraw Muni, NDB or GPS RWY 25, Amdt 1
Summerville, SC, Dorchester County, NDB or GPS RWY 5, Orig-A
Huron, SD, Huron Regional, VOR or GPS RWY 12, Amdt 21
Miller, SD, Miller Muni, NDB or GPS RWY 13, Amdt 1
Pierre, SD, Pierre Regional, VOR/DME or TACAN or GPS RWY 7, Amdt 4
Pierre, SD, Pierre Regional, VOR/DME or TACAN or GPS RWY 25, Amdt 16
Bolivar, TN, William L. Whitehurst Field, NDB or GPS RWY 1, Amdt 3
Camden, TN, Benton County, VOR/DME or GPS RWY 3, Amdt 3
Chattanooga, TN, Lovell Field, NDB or GPS RWY 20, Amdt 30
Dayton, TN, Mark Anton, NDB or GPS RWY 3, Amdt 1
Dyersburg, TN, Dyersburg Muni, VOR/DME or GPS RWY 4, Amdt 2
Dyersburg, TN, Dyersburg Muni, VOR or GPS–A, Amdt 16
Somerville, TN, Fayette County, NDB or GPS RWY 18, Orig
Big Spring, TX, Big Spring McMahon-Wrinkle, VOR/DME or GPS RWY 17, Amdt 7
Big Spring, TX, Big Spring McMahon-Wrinkle, VOR/DME or GPS RWY 35, Amdt 7
Crosbyton, TX, Crosbyton Municipal, NDB or GPS RWY 35, Orig
Dallas, TX, Addison, NDB or GPS RWY 15, Amdt 4
Del Rio, TX, Del Rio Intl, VOR/DME or GPS–B, Amdt 3
Del Rio, TX, Del Rio Intl, VOR or GPS–A, Amdt 10
Del Rio, TX, Del Rio Intl, NDB or GPS RWY 13, Amdt 2
Denton, TX, Denton Muni, NDB or GPS RWY 17, Amdt 5
Devine, TX, Devine Muni, NDB or GPS RWY 35, Amdt 2
Eagle Lake, TX, Eagle Lake, VOR or GPS RWY 17, Amdt 4
Fort Stockton, TX, Fort Stockton-Pecos County, VOR/DME or GPS–A, Amdt 5
Fort Stockton, TX, Fort Stockton-Pecos County, VOR or GPS RWY 12, Amdt 7
Mineola/Quitman, TX, Mineola-Quitman, VOR/DME or GPS–B, Amdt 1
Mineola/Quitman, TX, Mineola-Quitman, RNAV or GPS RWY 18, Amdt 1

Monahans, TX, Roy Hurd Memorial, VOR/DME or GPS RWY 12, Amdt 1
Nacogdoches, TX, A.L. Mangham Jr. Regional, NDB or GPS RWY 18, Amdt 1
Nacogdoches, TX, A.L. Mangham Jr. Regional, NDB or GPS RWY 36, Amdt 1
Rockport, TX, Aransas County, VOR/DME or TACAN or GPS–A, Amdt 7
Rockport, TX, Aransas County, NDB 2 or GPS RWY 14, Amdt 2
Rocksprings, TX, Edwards County, VOR or GPS RWY 14, Amdt 1
Rockwall, TX, Rockwall Muni, VOR/DME or GPS RWY 16, Amdt 4
Sinton, TX, San Patricio County, VOR/DME or GPS RWY 14, Orig-A
Sinton, TX, San Patricio County, VOR or GPS RWY 32, Amdt 7
Cedar City, UT, Cedar City Muni, NDB or GPS RWY 20, Orig
Duchesne, UT, Duchesne Muni, VOR/DME or GPS RWY 25, Amdt 1
Wendover, UT, Wendover, VOR/DME or TACAN or GPS–A, Amdt 2
Dublin, VA, New River Valley, VOR/DME or GPS RWY 6, Amdt 6
Dublin, VA, New River Valley, VOR or GPS–A, Amdt 7
Moneta, VA, Smith Mountain Lake, VOR/DME or GPS RWY 23, Orig
Winchester, VA, Winchester Regional, VOR/DME or GPS–A, Amdt 3A
Winchester, VA, Winchester Regional, NDB or GPS–A, Orig
Burlington, VT, Burlington Intl, VOR or GPS RWY 1, Amdt 10
Burlington, VT, Burlington Intl, NDB or GPS RWY 15, Amdt 18
Bellingham, WA, Bellingham Intl, NDB or GPS RWY 16, Orig
Everett, WA, Snohomish County (Paine Fld), VOR or GPS–B, Orig
Everett, WA, Snohomish County (Paine Fld), NDB or GPS RWY 16R, Amdt 12
Baraboo, WI, Baraboo Wisconsin Dells, VOR or GPS–A, Amdt 11
Cable, WI, Cable Union, VOR/DME RNAV or GPS RWY 34, Amdt 4
Cable, WI, Cable Union, VOR/DME or GPS–A, Amdt 5
Cable, WI, Cable Union, NDB or GPS–B, Amdt 9
Hartford, WI, Hartford Muni, VOR or GPS–A, Amdt 5
Hartford, WI, Harford Muni, NDB or GPS RWY 11, Amdt 4
Kenosha, WI, Kenosha Regional, NDB or GPS RWY 6L, Amdt 1
Madison, WI, Morey, VOR or GPS–A, Amdt 6
Madison, WI, Morey, VOR or GPS–B, Amdt 5
Madison, WI, Morey, RNAV or GPS RWY 12, Amdt 3
Charleston, WV, Yeager, VOR or GPS–A, Amdt 12
Lewisburg, WV, Greenbrier Valley, VOR or GPS–A, Amdt 7
Lewisburg, WV, Greenbrier Valley, NDB or GPS RWY 4, Amdt 4A
Martinsburg, WV, Eastern West Virginia Regional/Shepherd Field, VOR or GPS–A, Amdt 8

The following are corrected procedure titles adding "or GPS" published in transmittal letter 94–17 and 94–18.

Erwin, NC, Harnett County, NDB or GPS RWY 22, Orig-A
Litchfield, IL, Litchfield Muni, NDB or GPS RWY 9, Amdt. 5
Litchfield, IL, Litchfield Muni, NDB or GPS RWY 27, Amdt. 7
Grantsburg, WI, Grantsburg Muni, VOR/DME or GPS–A, Amdt 1

[FR Doc. 94–25564 Filed 10–14–94; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to the Bank Secrecy Act Regulations Relating to Identification Required To Purchase Bank Checks and Drafts, Cashier's Checks, Money Orders, and Traveler's Checks

AGENCY: Departmental Offices, Treasury.
ACTION: Final Rule.

SUMMARY: The Bank Secrecy Act prohibits financial institutions from issuing or selling bank checks or drafts, cashier's checks, money orders or traveler's checks for $3,000 or more in currency unless the financial institution verifies and records the identity of the purchaser. On May 15, 1990, Treasury published in the **Federal Register**, a Final Rule requiring financial institutions to verify and record such identifying information, to record certain information regarding the instruments purchased, such as the amount of the instruments, and to maintain a centralized chronological log of the sales. Today's Final Rule rescinds the requirement to maintain a chronological log and reduces substantially the amount of information required to be recorded.

EFFECTIVE DATE: This Final Rule is effective on October 17, 1994.

ADDRESSES: Peter G. Djinis, Director, Office of Financial Enforcement, Financial Crimes Enforcement Network (FinCEN), Department of the Treasury, Room 3210 Annex, 1500 Pennsylvania Avenue, NW., Washington DC 20220.

FOR FURTHER INFORMATION CONTACT: A. Carlos Correa, Chief, Regulations and Rulings, Office of Financial Enforcement, (202) 622–0400.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5328) requires the Secretary of the Treasury to prescribe regulations requiring financial institutions to verify and record the identity of purchasers of bank checks, cashier's checks, traveler's checks and money orders for currency in amounts of $3,000 or more. 31 U.S.C. 5325. The purpose of Section 5325 is to deter and detect persons seeking to evade Bank Secrecy Act reporting requirements through purchases in currency of multiple monetary instruments in amounts under $10,000. On May 15, 1990, Treasury published in the **Federal Register**, 55 FR 20139–20144, a Final Rule implementing these new recordkeeping requirements by amending the Bank Secrecy Act regulations at 31 CFR 103.29 (Section 103.29).

Section 103.29, which was effective August 13, 1990, established recordkeeping requirements for purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks with currency in amounts of $3,000 to $10,000, inclusive. This section required that the recorded data be kept on a centralized chronological log(s) and maintained for five years. The specific data to be recorded depended upon whether the purchaser had a deposit account at the institution issuing or selling the monetary instrument(s).

For a deposit accountholder, a financial institution was required to obtain and record: the purchaser's name and account number; the date of purchase; the branch where the purchase occurred; the types(s) and serial number(s) of each of the instrument(s) purchased; and the dollar amount(s) of each of the instrument(s) purchased in currency. Further, the financial institution was required to verify that the individual purchaser was a deposit accountholder, or to verify the individual's identity. If the individual's identity had not been verified previously and recorded, the financial institution was required to do so by examination of a document containing the name and address of the purchaser. Such information was required to be recorded on a centralized chronological log kept at the financial institution.

If a purchaser did not have a deposit account, Section 103.29 required financial institutions to obtain and log the purchaser's name, date of birth, address, and social security or alien identification number. If the individual was purchasing the instrument(s) on behalf of another person, the name and account number of that person or, if there were no account number, the

name, address and social security number, as well as the taxpayer identification number, or alien identification number, of such person also had to be recorded. Further, the financial institution was required to log: the date of purchase; the branch where the purchase occurred; the type(s), serial number(s), and dollar amount(s) of each of the instrument(s) purchased; the payee(s) on each purchased cashier's check(s), bank check(s) and draft(s); and the amount of the purchase in currency. Finally, the financial institution had to verify the purchaser's name and address by examination of a document containing that information. The specific identifying information was required to be recorded on the log (*e.g.*, state of issuance and number of driver's license).

Financial institutions were required by Section 103.29 to treat contemporaneous purchases of the same or different types of instruments totaling $3,000 or more as one purchase. Multiple purchases during one business day totaling $3,000 or more had to be treated as one purchase if the financial institution had knowledge that these purchases had occurred. Multiple sales had to be noted as such on the log(s).

Finally, the financial institution was required to maintain chronological log(s) in a centralized location, retain them for at least five years, and make them available to the Secretary upon request.

Reviewing Section 103.29 Requirements

Treasury established a Money Laundering Task Force (Task Force) to consider ways to reduce the regulatory burden of complying with the BSA while enhancing the utility of information received from financial institutions. The Task Force considered the costs to financial institutions of obtaining and recording specific financial data concerning cash purchases of monetary instruments and the value of this information to law enforcement.

Based upon the Task Force's review, Treasury determined that, while Section 103.29 remains a useful deterrent, its required records, informally referred to as $3,000 logs, had been requested and used infrequently by law enforcement. Because Section 103.29 does not specify the format in which the $3,000 logs should be maintained, law enforcement use of the logs is labor intensive. Log information must be retrieved manually and computerized. This is a cumbersome process which, when weighed against other immediate leads in the hands of law enforcement, such as suspicious transaction reports, criminal referrals and informants, may have discouraged requests for the $3,000 logs.

Treasury has evaluated the cost of compliance with the $3,000 log requirement to financial institutions against its benefits to the law enforcement community. Treasury believes that Section 103.29 imposes an expensive and time-consuming burden on financial institutions and that its recordkeeping requirements can be reduced substantially without compromising its deterrent effect or utility to law enforcement.

In reaching this determination, Treasury consulted with the Bank Secrecy Act Advisory Group (Advisory Group), a committee comprising 30 representatives from the financial services industry, trades and businesses, and state and federal government. The Advisory Group stated that the financial institution's resources could be more effectively devoted to the detection and reporting of suspicious transactions and implementation of "know your customer" programs and procedures. Treasury expects to issue a Notice of Proposed Rulemaking outlining the elements of anti-money laundering programs, including "know your customer" policies and procedures incorporating, among other things, verification of identity when establishing a customer relationship, and suspicious transaction reporting. In light of these initiatives, Treasury has determined that Section 103.29 should be modified to lessen the amount of information that must be obtained and recorded and to permit retention of this information in records kept in the ordinary course of business, in a manner consistent with the record systems that may already exist in financial institutions.

Recordkeeping Required

Today's rule requires deposit accountholders' financial institutions when issuing or selling a bank check or draft, cashier's check, money order or traveler's check for $3,000 or more in currency to obtain and maintain records of: the name of the purchaser; the date of purchase; and, the type(s), serial number, and the amount in dollars of each of the instrument(s) purchased. The financial institution must verify that the purchaser is a deposit accountholder and has been identified previously, or verify his or her identity and record the method of verification.

The new rule requires a financial institution issuing or selling the same monetary instruments to a person that does not have a deposit account to obtain and maintain records of: the name, address, social security or alien identification number and date of birth of the purchaser; the date of purchase; and, the type(s), serial number and the amount in dollars of each of the instrument(s) purchased. The financial institution must verify the purchaser's identity and record the method of verification and specific identifying information (*e.g.* state of issuance and number of driver's license).

Financial institutions must continue to treat contemporaneous purchases by an individual as one purchase. Multiple purchases by an individual must also still be treated as one purchase if they are known to the financial institution. Information to be maintained may be recorded on copies of, or other records relating to, the instruments purchased. All records must still be maintained for five years and made available to the Secretary upon request at any time. As with all records required to be maintained under the BSA, the records must be filed or stored in a way as to be accessible within a reasonable period of time. Section 103.38.

Much of the information, required formerly to be kept in centralized chronological logs, is available generally in account or other records, or on the originals or copies of the monetary instruments. These copies, along with other records kept in the ordinary course of business, may satisfy the requirements of this Final Rule and may be kept in any format. These records must be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

Recordkeeping Requirements Eliminated

To relieve the burden imposed on financial institutions by Section 103.29, today's Final Rule reduces substantially the amount of information required to be maintained and eliminates the requirement for a centralized chronological log. Because Treasury is reducing requirements already imposed by Section 103.29 of the BSA regulations, and not adding any new requirements, this rule is published as a Final Rule, effective upon publication in the **Federal Register**. For the sake of clarity and for ease of understanding, amended Section 103.29 is published in its entirety.

Information Eliminated

Treasury rescinds the requirement for centralized chronological log(s) for sales of monetary instruments. Instead, financial institutions will be required to obtain and maintain records of certain

information and may keep them in any format.

In the case of deposit accountholders, Treasury eliminates the requirement to log the purchaser's account number, the branch where the purchase occurred, and the requirement to note on the log whether the transaction is part of a multiple sale.

In the case of persons who do not hold deposit accounts with the financial institution, Treasury eliminates the requirement to obtain and record information regarding the person(s) "on whose behalf" the instrument is being purchased, the branch where the purchase occurred, payee(s) on each cashier's check and bank checks and drafts purchased, and the amount of the purchase in currency. The requirement to note whether the transaction is part of a multiple sale is also eliminated. Although Treasury rescinds the requirement to record whether a given transaction is part of a multiple sale, Treasury retains the requirement that a financial institution treat as a single purchase, multiple sales to an individual of which the institution has knowledge.

Conclusion

Treasury is rescinding those provisions of Section 103.29 as described above and clarifying revised recordkeeping requirements.

Executive Order 12866

This Final Rule is not a "significant" rule for purposes of Executive Order 12866. Consistent with that Order, it reduces regulatory burden. It rescinds a requirement that financial institutions maintain centralized chronological log(s) of the issuance or sale for cash of certain monetary instruments, and substantially reduces data required to be recorded regarding such issuances or sales. Therefore, it is not anticipated to have an annual effect on the economy of $100 million or more. Rather, it will reduce the costs of doing business for financial institutions. It will not affect adversely in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. It is not inconsistent with, nor does it interfere with actions taken or planned by other agencies. Finally, it raises no novel legal or policy issues. A cost and benefit analysis, therefore, is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply.

Paperwork Reduction Act

The collection of information requirements contained in this Final Rule has been reviewed and approved previously by the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (under control number 1505–0063).

Drafting Information

The principal author of this document is the Office of Financial Enforcement.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

For the reasons set forth in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 is revised to read as follows:

Authority: Pub. L. 91–508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951–1959); 31 U.S.C. 5311–5328.

2. Section 103.29 is revised to read as follows:

§ 103.29 Purchases of bank checks and drafts, cashier's checks, money orders and traveler's checks.

(a) No financial institution may issue or sell a bank check or draft, cashier's check, money order or traveler's check for $3,000 or more in currency unless it maintains records of the following information, which must be obtained for each issuance or sale of one or more of these instruments to any individual purchaser which involves currency in amounts of $3,000–$10,000 inclusive:

(1) If the purchaser has a deposit account with the financial institution:

(i)(A) The name of the purchaser;

(B) The date of purchase;

(C) The type(s) of instrument(s) purchased;

(D) The serial number(s) of each of the instrument(s) purchased; and

(E) The amount in dollars of each of the instrument(s) purchased.

(ii) In addition, the financial institution must verify that the individual is a deposit accountholder or must verify the individual's identity. Verification may be either through a signature card or other file or record at the financial institution provided the deposit accountholder's name and address were verified previously and that information was recorded on the signature card or other file or record; or by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser. If the deposit accountholder's identity has not been verified previously, the financial institution shall verify the deposit accountholder's identity by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and shall record the specific identifying information (*e.g.*, State of issuance and number of driver's license).

(2) If the purchaser does not have a deposit account with the financial institution:

(i)(A) The name and address of the purchaser;

(B) The social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number;

(C) The date of birth of the purchaser;

(D) The date of purchase;

(E) The type(s) of instrument(s) purchased;

(F) The serial number(s) of the instrument(s) purchased; and

(G) The amount in dollars of each of the instrument(s) purchased.

(ii) In addition, the financial institution shall verify the purchaser's name and address by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and shall record the specific identifying information (*e.g.*, State of issuance and number of driver's license).

(b) Contemporaneous purchases of the same or different types of instruments totaling $3,000 or more shall be treated as one purchase. Multiple purchases during one business day totaling $3,000 or more shall be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

(c) Records required to be kept shall be retained by the financial institution for a period of five years and shall be

made available to the Secretary upon request at any time.

Dated: September 20, 1994.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 94–25490 Filed 10–14–94; 8:45 am]

BILLING CODE 4810–25–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 552 and 570

[APD 2800.12A CHGE 56]

RIN 3090–AF58

General Services Administration Acquisition Regulation; Local Measurement

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise sections 552.270–4, 552.270–21, 552.270–25, and 552.270–28 to provide for the use of the term "occupiable" space in lieu of "net usable" space; section 552.270–31 is revised to reflect how the amount of occupiable space is determined; section 552.270–41 is added to provide for the acceptance of space; section 570.702–22 is revised to change the section title; and section 570.702–32 is added to prescribe a new clause on the acceptance of space.

EFFECTIVE DATE: October 17, 1994.

FOR FURTHER INFORMATION CONTACT: John Joyner, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the Federal Register for public comment because it is not a significant revision as defined in FAR 1.501–1.

B. Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply because this rule is not a significant revision as defined in FAR 1.501–1.

D. Paperwork Reduction Act

This rule does not impose any information collection or recordkeeping requirements that require the approval of OMB under 44 U.S.C. 3501, et. seq. Therefore, the requirements of the Paperwork Reduction Act do not apply.

List of Subjects in 48 CFR Parts 552 and 570

Government procurement.

Accordingly, 48 CFR Parts 552 and 570 are amended as follows:

1. The authority citation for 48 CFR Parts 552 and 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 552.270–4 is amended by revising the date of the clause and paragraph (a)(2) to read as follows:

552.270–4 Historic preference.

* * * * *

Historic Preference (Aug 1994)

* * * * *

(a) * * *

(2) The rental is no more than 10 percent higher on a total annual square foot (occupiable) cost to the Government than the lowest otherwise acceptable offer.

* * * * *

3. Section 552.270–21 is amended by revising the clause date and paragraph (b)(4) to read as follows:

552.270–21 Changes.

* * * * *

Changes (Aug 1994)

* * * * *

(b) * * *

(4) An equitable adjustment of the annual operating costs per occupiable square foot specified in this lease.

* * * * *

4. Section 552.270–25 is amended by revising the clause date and paragraph (b) to read as follows:

552.270–25 Adjustment for vacant premises.

* * * * *

Adjustment for Vacant Premises (Aug 1994)

* * * * *

(b) The rate will be reduced by that portion of the costs per occupiable square foot of operating expenses not required to maintain the space. Said reduction must occur after the Government gives 30 calendar days prior notice to the Lessor, and must continue in effect until the Government occupies the premises or the lease expires or is terminated.

5. Section 552.270–28 is amended by revising the clause date and paragraph (b) to read as follows:

552.270–28 Default in delivery—Time Extensions.

* * * * *

Default in Delivery—Time Extensions (Aug 1994)

* * * * *

(b) Delivery by Lessor of less than the minimum occupiable square footage required by this lease shall in no event be construed as substantial completion, except as permitted by the Contracting Officer.

* * * * *

6. Section 552.270–31 is revised to read as follows:

552.270–31 Payment.

As prescribed in 570.702–22, insert the following clause:

Payment (Aug 1994)

(a) When space is offered and accepted, the occupiable square footage delivered will be confirmed by:

(1) the Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans; or

(2) a mutual on-site measurement of the space if the Contracting Officer determines that it is necessary.

(b) Payment will not be made for space which is in excess of the amount of occupiable square footage stated in the lease.

(c) If it is determined that the amount of occupiable square footage actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of occupiable space delivered and the annual rental will be adjusted as follows:

(1) Occupiable square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF).

(2) OSF×(1+CAF)×Rate per RSF=Reduction in Annual Rent.

7. Section 552.270–41 is added to read as follows:

552.270–41 Acceptance of space.

As prescribed in 570.702–32, insert the following clause:

Acceptance of Space (Aug 1994)

(a) When the lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the lessor shall notify the Contracting Officer. The Contracting Officer or designated representative shall promptly inspect the space.

(b) The Government will accept the space and the lease term will begin after determining that the space is substantially complete and contains the required occupiable square footage as indicated in Paragraph 1.1, Amount and Type of Space, of this solicitation.

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

8. Section 570.702–22 is revised to read as follows:

570.702–22 Payment.

The contracting officer shall insert a clause substantially the same as the clause at 552.270–31, Payment, in solicitations and contracts for leasehold interests in real property which involve both more than 10,000 square feet of space and terms which exceed 6 months. Use of the clause is optional for 10,000 square feet or less of space or for terms of 6 months or less regardless of the square footage.

9. Section 570.702–32 is added to read as follows:

570.702–32 Acceptance of space.

The contracting officer shall insert a clause substantially the same as the clause at 552.270–41, Acceptance of space, in solicitations and contracts for leasehold interests in real property which involve both more than 10,000 square feet of space and terms which exceed 6 months. Use of the clause is optional for 10,000 square feet or less of space or for terms of 6 months or less regardless of the square footage.

Dated: September 2, 1994.

Arthur E. Ronkovich,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 94–25093 Filed 10–14–94; 8:45 am]

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Proposed Rules

Federal Register
Vol. 59, No. 199
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52 and 100

RIN 3150–AD93

Reactor Site Criteria Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants and Proposed Denial of Petition From Free Environment, Inc. et al.

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule and proposed denial of petition from Free Environment, Inc. et al.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to update the criteria used in decisions regarding power reactor siting, including geologic, seismic, and earthquake engineering considerations for future nuclear power plants. The proposed rule would allow NRC to benefit from experience gained in the application of the procedures and methods set forth in the current regulation and to incorporate the rapid advancements in the earth sciences and earthquake engineering. In addition, this proposed rule benefits from the public comments received on the first proposed revision of the regulations. This proposed rule primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting. The Commission is also proposing to deny the remaining issue in petition (PRM–50–20) filed by Free Environment, Inc. et al.

DATES: Comment period expires February 14,1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written 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, Federal workdays.

Copies of the regulatory analysis, the environmental assessment and finding of no significant impact, and comments received may be examined at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6010, concerning the seismic and earthquake engineering aspects and Mr. Leonard Soffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6574, concerning other siting aspects.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Objectives.
III. Genesis.
IV. Alternatives.
V. Major Changes.
A. Reactor Siting Criteria (Nonseismic).
B. Seismic and Earthquake Engineering Criteria.
VI. Related Regulatory Guides and Standard Review Plan Section.
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IX. Electronic Format.
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I. Background

The present regulation regarding reactor site criteria (10 CFR part 100) was promulgated April 12, 1962 (27 FR 3509). NRC staff guidance on exclusion area and low population zone sizes as well as population density was issued in Regulatory Guide 4.7, "General Site Suitability Criteria for Nuclear Power Stations," published for comment in September 1974. Revision 1 to this guide was issued in November 1975. On June 1, 1976, the Public Interest Research Group (PIRG) filed a petition for rulemaking (PRM–100–2) requesting that the NRC incorporate minimum exclusion area and low population zone distances and population density limits into the regulations. On April 28, 1977, Free Environment, Inc. et al., filed a petition for rulemaking (PRM–50–20). The remaining issue of this petition requests that the central Iowa nuclear project and other reactors be sited at least 40 miles from major population centers. In August 1978, the Commission directed the NRC staff to develop a general policy statement on nuclear power reactor siting. The "Report of the Siting Policy Task Force" (NUREG–0625) was issued in August 1979 and provided recommendations regarding siting of future nuclear power reactors. In the 1980 Authorization Act for the NRC, the Congress directed the NRC to decouple siting from design and to specify demographic criteria for siting. On July 29, 1980 (45 FR 50350), the NRC issued an Advance Notice of Proposed Rulemaking (ANPRM) regarding revision of the reactor site criteria, which discussed the recommendations of the Siting Policy Task Force and sought public comments. The proposed rulemaking was deferred by the Commission in December 1981 to await development of a Safety Goal and improved research on accident source terms. On August 4, 1986 (51 FR 23044), the NRC issued its Policy Statement on Safety Goals that stated quantitative health objectives with regard to both prompt and latent cancer fatality risks. On December 14, 1988 (53 FR 50232), the NRC denied PRM–100–2 on the basis that it would unnecessarily restrict NRC's regulatory siting policies and would not result in a substantial increase in the overall protection of the public health and safety. Because of possible renewed interest in power reactor siting, the NRC is proceeding with a rulemaking in this area. The Commission proposes to address the remaining issue in PRM–50–20 as part of this rulemaking action.

Appendix A to 10 CFR part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," was originally issued as a proposed regulation on November 25, 1971 (36 FR 22601), published as a final regulation on November 13, 1973 (38 FR 31279), and became effective on December 13, 1973. There have been two amendments to 10 CFR part 100, appendix A. The first amendment, issued November 27, 1973 (38 FR 32575), corrected the final regulation by adding the legend under

the diagram. The second amendment resulted from a petition for rulemaking (PRM–100–1) requesting that an opinion be issued that would interpret and clarify Appendix A with respect to the determination of the Safe Shutdown Earthquake. A notice of filing of the petition was published on May 14, 1975 (40 FR 20983). The substance of the petitioner's proposal was accepted and published as an immediately effective final regulation on January 10, 1977 (42 FR 2052).

The first proposed revision to these regulations was published for public comment on October 20, 1992 (57 FR 47802). The availability of the five draft regulatory guides and the standard review plan section that were developed to provide guidance on meeting the proposed regulations was published on November 25, 1992 (57 FR 55601). The comment period for the proposed regulations was extended two times. First, the NRC staff initiated an extension (58 FR 271) from February 17, 1993 to March 24, 1993, to be consistent with the comment period on the draft regulatory guides and standard review plan section. Second, in response to a request from the public, the comment period was extended to June 1, 1993 (58 FR 16377).

The proposed regulations published on October 20, 1992 (57 FR 47802) and draft guidance documents cited in the availability notice published on November 25, 1992 (57 FR 55601) are withdrawn because of the substantive nature of the changes to be made in response to public comments and are replaced with the second proposed revision of the regulations presented in this document.

II. Objectives

The objectives of this proposed regulatory action are to—

1. State basic site criteria for future sites that, based upon experience and importance to risk, have been shown as key to protecting public health and safety;

2. Provide a stable regulatory basis for seismic and geologic siting and applicable earthquake engineering design of future nuclear power plants that will update and clarify regulatory requirements and provide a flexible structure to permit consideration of new technical understandings; and

3. Relocate source term and dose requirements that apply primarily to plant design into 10 CFR part 50.

III. Genesis

The proposed regulatory action reflects changes that are intended to (1) benefit from the experience gained in applying the existing regulation and from research; (2) resolve interpretive questions; (3) provide needed regulatory flexibility to incorporate state-of-the-art improvements in the geosciences and earthquake engineering; and (4) simplify the language to a more "plain English" text. In addition, the proposed regulatory action will benefit from public comments received on the first proposed revision of the regulations and guidance documents.

The proposed regulatory action would apply to applicants who apply for a construction permit, operating license, preliminary design approval, final design approval, manufacturing license, early site permit, design certification, or combined license on or after the effective date of the final regulations.

Criteria not associated with the selection of the site or establishment of the Safe Shutdown Earthquake Ground Motion (SSE) have been placed into 10 CFR part 50. This action is consistent with the location of other design requirements in 10 CFR part 50.

Because the revised criteria presented in the proposed regulation would not be applied to existing plants, the licensing bases for existing nuclear power plants must remain part of the regulations. Therefore, the non-seismic and seismic reactor site criteria for current plants would be retained as subpart A and appendix A to 10 CFR part 100, respectively. The proposed revised reactor site criteria would be added as subpart B in 10 CFR part 100 and would apply to site applications received on or after the effective date of the final regulations. Non-seismic site criteria would be added as a new § 100.21 to subpart B in 10 CFR part 100. The criteria on seismic and geologic siting would be added as a new § 100.23 to subpart B in 10 CFR part 100. The dose calculations and the earthquake engineering criteria would be located in 10 CFR part 50 (§ 50.34(a) and Appendix S, respectively). Because Appendix S is not self executing, applicable sections of part 50 (§ 50.34 and § 50.54) are revised to reference appendix S. The proposed regulation would also make conforming amendments to 10 CFR part 52. Section 52.17(a)(1) would be amended to reflect changes in 50.34(a)(1) and 10 CFR Part 100.

IV. Alternatives

The first alternative considered by the Commission was to continue using current regulations for site suitability determinations. This is not considered an acceptable alternative. Accident source terms and dose calculations currently primarily influence plant design requirements rather than siting. It is desirable to state basic site criteria which, through importance to risk, have been shown to be key to assuring public health and safety. Further, significant advances in understanding severe accident behavior, including fission product release and transport, as well as in the earth sciences and in earthquake engineering have taken place since the promulgation of the present regulation and deserve to be reflected in the regulations.

The second alternative considered was replacement of the existing regulation with an entirely new regulation. This is not an acceptable alternative because the provisions of the existing regulations form part of the licensing bases for many of the operating nuclear power plants and others that are in various stages of obtaining operating licenses. Therefore, these provisions should remain in force and effect.

The approach of establishing the revised requirements in new sections to 10 CFR part 100 and relocating plant design requirements to 10 CFR part 50 while retaining the existing regulation was chosen as the best alternative. The public will benefit from a clearer, more uniform, and more consistent licensing process that incorporates updated information and is subject to fewer interpretations. The NRC staff will benefit from improved regulatory implementation (both technical and legal), fewer interpretive debates, and increased regulatory flexibility. Applicants will derive the same benefits in addition to avoiding licensing delays caused by unclear regulatory requirements.

V. Major Changes

A. Reactor Siting Criteria (Nonseismic)

Since promulgation of the reactor site criteria in 1962, the Commission has approved more than 75 sites for nuclear power reactors and has had an opportunity to review a number of others. In addition, light-water commercial power reactors have accumulated about 1800 reactor-years of operating experience in the United States. As a result of these site reviews and operational experience, a great deal of insight has been gained regarding the design and operation of nuclear power plants as well as the site factors that influence risk. In addition, an extensive research effort has been conducted to understand accident phenomena, including fission product release and transport. This extensive operational experience together with the insights gained from recent severe accident

research as well as numerous risk studies on radioactive material releases to the environment under severe accident conditions have all confirmed that present commercial power reactor design, construction, operation and siting is expected to effectively limit risk to the public to very low levels. These risk studies include the early "Reactor Safety Study" (WASH–1400), published in 1975, many Probabilistic Risk Assessment (PRA) studies conducted on individual plants as well as several specialized studies, and the recent "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants," (NUREG–1150), issued in 1990. Advanced reactor designs currently under review are expected to result in even lower risk and improved safety compared to existing plants. Hence, the substantial base of knowledge regarding power reactor siting, design, construction and operation reflects that the primary factors that determine public health and safety are the reactor design, construction and operation.

Siting factors and criteria, however, are important in assuring that radiological doses from normal operation and postulated accidents will be acceptably low, that natural phenomena and potential man-made hazards will be appropriately accounted for in the design of the plant, and that site characteristics are amenable to the development of adequate emergency plans to protect the public and adequate security measures to protect the plant. The Commission has also had a long standing policy of siting reactors away from densely populated centers, and is continuing this policy in the proposed rule.

The Commission is proposing to incorporate basic reactor site criteria in the proposed rule to accomplish the above purposes.

The Commission proposes to retain source term and dose calculations to verify the adequacy of a site for a specific plant, but source term and dose calculations will be relocated to part 50, since experience has shown that these calculations have tended to influence plant design aspects such as containment leak rate or filter performance rather than siting. No specific source term would be referenced in part 50. Rather, the source term would be required to be one that is "* * * assumed to result in substantial meltdown of the core with subsequent release into the containment of appreciable quantities of fission products." Hence, this guidance could be utilized with the source term currently used for light-water reactors, or used in conjunction with revised accident source terms, currently under development within the NRC staff as well as in the industry.

The proposed relocation of source term and dose calculations to part 50 represent a partial decoupling of siting from accident source term and dose calculations. The siting criteria are envisioned to be utilized together with standardized plant designs whose features will be certified in a separate design certification rulemaking procedure. Each of the standardized designs would specify an atmospheric dilution factor that would be required to be met, in order to meet the dose criteria at the exclusion area boundary. For a given standardized design, a site having relatively poor dispersion characteristics would require a larger exclusion area distance than one having good dispersion characteristics. Additional design features would be discouraged in a standardized design to compensate for otherwise poor site conditions.

Although individual plant tradeoffs would be discouraged for a given standardized design, a different standardized design could require a different atmospheric dilution factor. For custom plants that do not involve a standardized design, the source term and dose criteria will continue to provide assurance that the site is acceptable for the proposed design.

Rationale for Individual Criteria

A. *Exclusion Area.* An exclusion area surrounding the immediate vicinity of the plant has been a requirement for siting power reactors from the very beginning. This area provides a high degree of protection to the public from a variety of potential plant accidents and also affords protection to the plant from potential man-related hazards. The Commission considers an exclusion area to be an essential feature of a reactor site and is proposing to retain this requirement for future reactors.

The proposed rule issued for comment in October 1992 proposed a minimum distance to the exclusion area boundary of 0.4 miles (640 meters), based upon the suggested value given in Regulatory Guide 4.7, without utilizing source term and dose calculations. This was based upon a conservative evaluation of the performance of fission product cleanup systems such as containment sprays or filter systems. Numerous comments were received stating that source term and dose calculations should be retained, and that the exclusion area distance should also be based upon a more realistic evaluation of actual fission product cleanup systems. In response to these comments, the Commission is proposing, in the present rule, to retain the use of source term and dose calculations, in part 50, to verify that an applicant's proposed exclusion area distance is adequate to assure that the radiological dose to an individual will be acceptably low in the event of a postulated accident. However, as noted above, if source term and dose calculations are used in conjunction with standardized designs, unlimited plant tradeoffs to compensate for poor site conditions would not be permitted. For plants that do not involve standardized designs, the source term and dose calculations would continue to provide assurance that the site is acceptable for the proposed design.

The present regulation requires that the exclusion area be of such size that an individual located at any point on its boundary for two hours immediately following onset of the postulated fission product release would not receive a total radiation dose in excess of 25 rem to the whole body or 300 rem to the thyroid gland. A footnote in the present regulation notes that a whole body dose of 25 rem has been stated to correspond numerically to the once in a lifetime accidental or emergency dose to radiation workers which could be disregarded in the determination of their radiation exposure status (NBS Handbook 69 dated June 5, 1959). However, the same footnote also clearly states that the Commission's use of this value does not imply that it considers it to be an acceptable limit for an emergency dose to the public under accident conditions, but only that it represents a reference value to be used for evaluating plant features and site characteristics intended to mitigate the radiological consequences of accidents in order to provide assurance of low risk to the public under postulated accidents. The Commission, based upon extensive experience in applying this criterion, and in recognition of the conservatism of the assumptions in its application (a large fission product release within containment associated with major core damage, maximum allowable containment leak rate, a postulated single failure of any of the fission product cleanup systems, such as the containment sprays, adverse site meteorological dispersion characteristics, an individual presumed to be located at the boundary of the exclusion area at the centerline of the plume for two hours without protective actions), believes that this criterion has clearly resulted in an adequate level of protection. As an illustration of the conservatism of this assessment, the

maximum whole body dose received by an actual individual during the Three Mile Island accident in March 1979, which involved major core damage, was estimated to be about 0.1 rem.

In the proposed rule, the Commission is proposing two changes in this area.

First, the Commission is proposing that the use of different doses for the whole body and thyroid gland be replaced by a single value of 25 rem, total effective dose equivalent (TEDE). The total effective dose equivalent concept is consistent with part 20 of the Commission's regulations, and is defined as the deep dose equivalent (for external exposures) plus the committed effective dose equivalent (for internal exposures). The deep dose equivalent is the same as the present whole body dose, while the committed effective dose equivalent is the sum of the products of doses to selected body organs times weighting factors for each organ that are representative of the radiation risk associated with that organ.

The proposed use of the total effective dose equivalent, or TEDE, is based upon two considerations. First, since it utilizes a risk consistent methodology to assess the radiological impact of all relevant nuclides upon all body organs, use of TEDE promotes a uniformity and consistency in assessing radiation risk that may not exist with the separate whole body and thyroid organ dose values in the present regulation. Second, use of TEDE lends itself readily to the application of updated accident source terms, which can vary not only with plant design, but in which additional nuclides besides the noble gases and iodine are predicted to be released into containment.

The Commission has examined the current dose criteria of 25 rem whole body and 300 rem thyroid with the intent of selecting a TEDE numerical value equivalent to the risk implied by the current dose criteria. These risks consist of the risk of developing cancer some time after the exposure (latent cancer incidence), as well as a delayed risk of cancer fatality (latent cancer fatality). For a dose of 25 rem whole body, the individual risk of latent cancer fatality is estimated to be about 2.5×10^{-2}; the risk of latent cancer incidence is about twice that (using risk coefficients expressed by ICRP Publication 60 and in NUREG/CR–4214). For a dose of 300 rem thyroid, the risk of latent cancer fatality is about 2×10^{-3}; the risk of latent cancer incidence is about a factor of ten higher.

If the risk of latent cancer fatality is selected as the appropriate risk measure to be used, the current dose criteria represent a risk of about 2.7×10^{-2}. Using a risk coefficient of about 10^{-3} per rem, the risk of latent cancer fatality implied by the current dose criteria is equivalent to 27 rem TEDE. (BEIR V estimates a latent cancer fatality risk coefficient of about 5×10^{-4} per rem, if the dose is received over a period of days or more; however, if the exposure period is shorter, such as 2 hours, the risk coefficient is approximately double.)

If latent cancer incidence rather than fatality were used, the current dose criteria would correspond to a value of about 35 rem TEDE.

The Commission is proposing to use the risk of latent cancer fatality as the appropriate risk measure since quantitative health objectives (QHOs) for it have been established in the Commission's Safety Goal policy. Although the current dose criteria are equivalent in risk to 27 rem TEDE, as noted above, the Commission is proposing to use 25 rem TEDE as the dose criterion for plant evaluation purposes, since this value is essentially the same level of risk as the current criteria.

Nevertheless, the Commission is specifically requesting comments on the use of TEDE. Comments are requested on whether the current dose criteria should be modified to utilize the total effective dose equivalent, or TEDE, concept. The Commission is also requesting comments on whether a TEDE value of 25 rem (consistent with latent cancer fatality), or 34 rem (consistent with latent cancer incidence), or some other value should be used. Finally, because the thyroid weighting factor is equal to a value of 0.03, there exists a theoretical possibility that an accidental release composed only of iodine could result in a TEDE less than 25 rem, yet result in a thyroid dose of over 800 rem. Although the Commission believes that the likelihood that an actual accident would release only iodine is highly unlikely, comments are also requested as to whether the dose criterion should also include a "capping" limitation, that is, an additional requirement that the dose to any individual organ not be in excess of some fraction of the total.

The second change being proposed in this area is in regard to the time period that a hypothetical individual is assumed to be at the exclusion area boundary. While the duration of the time period remains at a value of two hours, the Commission is proposing that this time period not be fixed in regard to the appearance of fission products within containment, but that various two-hour periods be examined with the objective that the dose to an individual not be in excess of 25 rem TEDE for any two-hour period after the appearance of fission products within containment. The Commission is proposing this change to reflect improved understanding of fission product release into the containment under severe accident conditions. For an assumed instantaneous release of fission products, as contemplated by the present rule, the two hour period that commences with the onset of the fission product release clearly results in the highest dose to a hypothetical individual offsite. Improved understanding of severe accidents shows that fission product releases to the containment do not occur instantaneously, and that the bulk of the releases may not take place for about an hour or more. Hence, the two-hour period commencing with the onset of fission product release may not represent the highest dose that an individual could be exposed to over any two-hour period. As a result, the Commission is proposing that various two-hour periods be examined to assure that the dose to a hypothetical individual at the exclusion area boundary will not be in excess of 25 rem TEDE over any two-hour period after the onset of fission product release.

B. *Site Dispersion Factors.* Site dispersion factors have been utilized to provide an assessment of dose to an individual as a result of a postulated accident. Since the Commission intends to require that a verification be made that the exclusion area distance is adequate to assure that the guideline dose to a hypothetical individual will not be exceeded under postulated accident conditions, as well as to assure that radiological limits are met under normal operating conditions, the Commission is proposing that the atmospheric dispersion characteristics of the site will be required to be evaluated, and that site dispersion factors based upon this evaluation be determined and used in assessing radiological consequences of normal operations as well as accidents.

C. *Low Population Zone.* The present regulation requires that a low population zone (LPZ) be defined immediately beyond the exclusion area. Residents are permitted in this area, but the number and density must be such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. In addition, the nearest densely populated center containing more than about 25,000 residents must be located no closer than one and one-third times the outer

boundary of the LPZ. Finally, the dose to a hypothetical individual located at the outer boundary of the LPZ over the entire course of the accident must not be in excess of the dose values given in the regulation.

Before 1980, the LPZ generally defined the distance over which public protective actions were contemplated in the event of a serious accident. The regulations in 10 CFR 50.47 now requires plume exposure Emergency Planning Zones (EPZ) of about 10 miles for each plant.

While the Commission considers that the siting functions intended for the LPZ, namely, a low density of residents and the feasibility of taking protective actions, have been accomplished by other regulations or can be accomplished by other guidance, the Commission continues to believe that a requirement that limits the radiological consequences over the course of the accident provides a useful evaluation of the plant's long-term capability to mitigate postulated accidents. For this reason, the Commission is proposing to retain the requirement that the dose consequences be evaluated at the outer boundary of the LPZ over the course of the postulated accident and that these not be in excess of 25 rem TEDE.

D. *Physical Characteristics of the Site.* It has been required that physical characteristics of the site, such as the geology, seismology, hydrology, meteorology characteristics be considered in the design and construction of any plant proposed to be located there. The proposed rule would require that these characteristics be evaluated and that site parameters, such as design basis flood conditions or tornado wind loadings be established for use in evaluating any plant to be located on that site in order to ensure that the occurrence of such physical phenomena would pose no undue hazard.

E. *Nearby Transportation Routes, Industrial and Military Facilities.* As for natural phenomena, it has been a long-standing NRC staff practice to review man-related activities in the site vicinity to provide assurance that potential hazards associated with such facilities or transportation routes will pose no undue risk to any plant proposed to be located at the site. The proposed rule would codify this practice.

F. *Adequacy of Security Plans.* The proposed rule would require that the characteristics of the site be such that adequate security plans and measures for the plant could be developed. The Commission envisions that this would entail a small secure area considerably smaller than that envisioned for the exclusion area.

G. *Adequacy of Emergency Plans.* The proposed rule would also require that the site characteristics be such that adequate plans to carry out protective measures for members of the public in the event of emergency could be developed.

H. *Siting Away From Densely Populated Centers.* Population density considerations beyond the exclusion area have been required since issuance of part 100 in 1962. The current rule requires a "low population zone" (LPZ) beyond the immediate exclusion area. The LPZ boundary must be of such a size that an individual located at its outer boundary must not receive a dose in excess of the values given in part 100 over the course of the accident. While numerical values of population or population density are not specified for this region, the regulation also requires that the nearest boundary of a densely populated center of about 25,000 or more persons be located no closer than one and one-third times the LPZ outer boundary. Part 100 has no population criteria other than the size of the LPZ and the proximity of the nearest population center, but notes that "where very large cities are involved, a greater distance may be necessary."

Whereas the exclusion area size is based upon limitation of individual risk, population density requirements serve to set societal risk limitations and reflect consideration of accidents beyond the design basis, or severe accidents. Such accidents were clearly a consideration in the original issuance of part 100, since the Statement of Considerations (27 FR 3509; April 12, 1962) noted that:

> Further, since accidents of greater potential hazard than those commonly postulated as representing an upper limit are conceivable, although highly improbable, it was considered desirable to provide for protection against excessive exposure doses to people in large centers, where effective protective measures might not be feasible * * *. Hence, the population center distance was added as a site requirement.

Limitation of population density beyond the exclusion area has the following benefits:

(a) It facilitates emergency preparedness and planning; and

(b) It reduces potential doses to large numbers of people and reduces property damage in the event of severe accidents.

Although the Commission's Safety Goal policy provides guidance on individual risk limitations, in the form of the Quantitative Health Objectives (QHO), it provides no guidance with regard to societal risk limitations and therefore cannot be used to ascertain whether a particular population density would meet the Safety Goal.

However, results of severe accident risk studies, particularly those obtained from NUREG–1150, can provide useful insights for considering potential criteria for population density. Severe accidents having the highest consequences are those where core-melt together with early bypass of or containment failure occurs. Such an event would likely lead to a "large release" (without defining this precisely). Based upon NUREG–1150, the probability of a core-melt accident together with early containment failure or bypass for some current generation LWRs is estimated to be between 10^{-5} and 10^{-6} per reactor year. For future plants, this value is expected to be less than 10^{-6} per reactor year.

If a reactor was located nearer to a large city than current NRC practice permitted, the likelihood of exposing a large number of people to significant releases of radioactive material would be about the same as the probability of a core-melt and early containment failure, that is, less than 10^{-6} per reactor year for future reactor designs. It is worth noting that events having the very low likelihood of about 10^{-6} per reactor year or lower have been regarded in past licensing actions to be "incredible", and as such, have not been required to be incorporated into the design basis of the plant. Hence, based solely upon accident likelihood, it might be argued that siting a reactor nearer to a large city than current NRC practice would pose no undue risk.

If, however, a reactor were sited away from large cities, the likelihood of the city being affected would be reduced because of two factors. First, because the wind is expected to blow in all directions with roughly the same frequency, the likelihood that radioactive material would actually be carried towards the city is reduced significantly because it is likely that the wind will blow in a direction away from the city. Second, the radiological dose consequences would also be reduced with distance because the radioactive material becomes increasingly diluted by the atmosphere and the inventory becomes depleted due to the natural processes of fallout and rainout before reaching the city. Analyses indicate that if a reactor were located at distances ranging from 10 to about 20 miles away from a city, depending upon its size, the likelihood of exposure of large numbers of people within the city would be reduced by factors of ten to one hundred or more compared with locating a reactor very close to a city.

In summary, next-generation reactors are expected to have risk characteristics sufficiently low that the safety of the public is reasonably assured by the reactor and plant design and operation itself, resulting in a very low likelihood of occurrence of a severe accident. Such a plant can satisfy the QHOs of the Safety Goal with a very small exclusion area distance (as low as 0.1 miles). The consequences of design basis accidents, analyzed using revised source terms and with a realistic evaluation of engineered safety features, are likely to be found acceptable at distances of 0.25 miles or less. With regard to population density beyond the exclusion area, siting a reactor closer to a densely populated city than is current NRC practice would pose a very low risk to the populace.

Nevertheless, the Commission considers that defense-in-depth considerations and the additional enhancement in safety to be gained by siting reactors away from densely populated centers should be maintained.

The Commission is proposing a two-tier approach with regard to population density and reactor sites. The proposed rule states that reactor sites should be located away from very densely populated centers, and that areas of low population density are, generally, preferred. The Commission believes that a site not falling within these two categories, although not preferred, could be found acceptable under certain conditions.

The Commission is not establishing specific numerical criteria for evaluation of population density in siting future reactor facilities because the acceptability of a specific site from the standpoint of population density must be considered in the overall context of safety and environmental considerations. The Commission's intent is to assure that a site that has significant safety, environmental or economic advantages is not rejected solely because it has a higher population density than other available sites. Population density is but one factor that must be balanced against the other advantages and disadvantages of a particular site in determining the site's acceptability. Thus, it must be recognized that sites with higher population density, so long as they are located away from very densely populated centers, can be approved by the Commission if they present advantages in terms of other considerations applicable to the evaluation of proposed sites.

On April 28, 1977, Free Environment, Inc. et al., filed a petition for rulemaking (PRM–50–20) requesting, among other things, that "the central Iowa nuclear project and other reactors be sited at least 40 miles from major population centers." The petitioner also stated that "locating reactors in sparsely-populated areas * * * has been endorsed in non-binding NRC guidelines for reactor siting." The petitioner did not specify what constituted a major population center. The only NRC guidelines concerning population density in regard to reactor siting are in Regulatory Guide 4.7, issued in 1974, and revised in 1975, prior to the date of the petition. This guide states population density values of 500 persons per square mile out to a distance of 30 miles from the reactor, not 40 miles.

Regulatory Guide 4.7 does provide effective separation from population centers of various sizes. Under this guide, a population center of about 25,000 or more residents should be no closer than 4 miles (6.4 km) from a reactor because a density of 500 persons per square mile within this distance would yield a total population of about 25,000 persons. Similarly, a city of 100,000 or more residents should be no closer than about 10 miles (16 km); a city of 500,000 or more persons should be no closer than about 20 miles (32 km), and a city of 1,000,000 or more persons should be no closer than about 30 miles (50 km) from the reactor.

The Commission has examined these guidelines with regard to the Safety Goal. The Safety Goal quantitative health objective in regard to latent cancer fatality states that, within a distance of ten miles (16 km) from the reactor, the risk to the population of latent cancer fatality from nuclear power plant operation, including accidents, should not exceed one"tenth of one percent of the likelihood of latent cancer fatalities from all other causes. In addition to the risks of latent cancer fatalities, the Commission has also investigated the likelihood and extent of land contamination arising from the release of long lived radioactive species, such as cesium-137, in the event of a severe reactor accident.

The results of these analyses indicate that the latent cancer fatality quantitative health objective noted above is met for current plant designs. From analysis done in support of this proposed change in regulation, the likelihood of permanent relocation of people located more than about 20 miles (50 km) from the reactor as a result of land contamination from a severe accident is very low.

Therefore, the Commission concludes that the current NRC staff guidance in Regulatory Guide 4.7 provide a means of locating reactors away from population centers, including "major" population centers, depending upon their size, that would limit societal consequences significantly, in the event of a severe accident. The Commission finds that granting of the petitioner's request to specify population criteria out to 40 miles would not substantially reduce the risks to the public. As noted, the Commission also believes that a higher population density site could be found to be acceptable, compared to a lower population density site, provided there were safety, environmental or economic advantages to the higher population site. Granting of the petitioner's request would neglect this possibility and would make population density the sole criterion of site acceptability. For these reasons, the Commission has decided not to adopt the proposal by Free Environment, Incorporated.

The Commission also notes that future population growth around a nuclear power plant site, as in other areas of the region, is expected but cannot be predicted with great accuracy, particularly in the long-term. Since higher population density sites are not unacceptable, per se, the Commission does not intend to consider license conditions or restrictions upon an operating reactor solely upon the basis that the population density around it may reach or exceed levels that were not expected at the time of site approval. Finally, the Commission wishes to emphasize that population considerations as well as other siting requirements apply only for the initial siting for new plants and will not be used in evaluating applications for the renewal of existing nuclear power plant licenses.

Change to 10 CFR Part 50

The proposed change to 10 CFR part 50 would relocate from 10 CFR Part 100 the dose requirements for each applicant at specified distances. Because these requirements affect reactor design rather than siting, they are more appropriately located in 10 CFR part 50.

These requirements would apply to future applicants for a construction permit, design certification, or an operating license. The Commission will consider after further experience in the review of certified designs whether more specific requirements need to be developed regarding revised accident source terms and severe accident insights.

B. Seismic and Earthquake Engineering Criteria

The following major changes in the proposed revision to Appendix A,

"Seismic and Geologic Siting Criteria for Nuclear Power Plants," to part 100, are associated with the proposed seismic and earthquake engineering criteria rule making. These changes reflect new information and research results, and incorporate the intentions of this regulatory action as defined in Section III of this proposed rule including comments from the public on the first proposed revision of the regulations. A specific document explaining the NRC staff's disposition of pertinent comments will be prepared coincident with the final rulemaking.

1. Separate Siting From Design

Criteria not associated with site suitability or establishment of the Safe Shutdown Earthquake Ground Motion (SSE) have been placed into 10 CFR part 50. This action is consistent with the location of other design requirements in 10 CFR part 50. Because the revised criteria presented in the proposed regulation will not be applied to existing plants, the licensing basis for existing nuclear power plants must remain part of the regulations. The criteria on seismic and geologic siting would be designated as a new § 100.23 to subpart B in 10 CFR part 100. Criteria on earthquake engineering would be designated as a new Appendix S, "Earthquake Engineering Criteria for Nuclear Power Plants," to 10 CFR part 50.

2. Remove Detailed Guidance From the Regulation

The current regulation contains both requirements and guidance on how to satisfy the requirements. For example, Section IV, "Required Investigations," of Appendix A, states that investigations are required for vibratory ground motion, surface faulting, and seismically induced floods and water waves. Appendix A then provides detailed guidance on what constitutes an acceptable investigation. A similar situation exists in Section V, "Seismic and Geologic Design Bases," of Appendix A.

Geoscience assessments require considerable latitude in judgment. This latitude in judgment is needed because of limitations in data and the state-of-the-art of geologic and seismic analyses and because of the rapid evolution taking place in the geosciences in terms of accumulating knowledge and in modifying concepts. This need appears to have been recognized when the existing regulation was developed. The existing regulation states that it is based on limited geophysical and geological information and will be revised as necessary when more complete information becomes available.

However, having geoscience assessments detailed and cast in a regulation has created difficulty for applicants and the staff in terms of inhibiting the use of needed latitude in judgment. Also, it has inhibited flexibility in applying basic principles to new situations and the use of evolving methods of analyses (for instance, probabilistic) in the licensing process.

The proposed regulation would be streamlined, becoming a new section in Subpart B to 10 CFR part 100 rather than a new appendix to part 100. Also, the level of detail presented in the proposed regulation would be reduced considerably. This approach reflects the philosophy of the first proposed revision that the regulation only contains the basic requirements and that the detailed guidance, which is contained in the current regulation, Appendix A to 10 CFR part 100, be removed to guidance documents. Thus, the proposed regulation contains: (a) Required definitions, (b) A requirement to determine the geological, seismological, and engineering characteristics of the proposed site, and (c) A requirement to determine the Safe Shutdown Earthquake Ground Motion (SSE) and its uncertainty, to determine the potential for surface deformation, and to determine the design bases for seismically induced floods and water waves. The guidance documents describe how to carry out these required determinations. The key elements of the balanced approach to determine the SSE are presented in the following section. The elements are the guidance that will be fully described in the guidance documents. The proposed regulation is a new section in part 100 rather than an appendix to Part 100. The proposed regulation would identify and establish basic requirements. Detailed guidance, that is, the procedures acceptable to the NRC for meeting the requirements, would be contained in a draft regulatory guide to be issued for public comment as Draft Regulatory Guide, DG–1032, "Identification and Characterization of Seismic Sources and Determination of Safe Shutdown Earthquake Ground Motions."

3. Uncertainties and Probabilistic Methods

The existing approach for determining a Safe Shutdown Earthquake Ground Motion (SSE) for a nuclear reactor site, embodied in appendix A to 10 CFR part 100, relies on a "deterministic" approach. Using this deterministic approach, an applicant develops a single set of earthquake sources, develops for each source a postulated earthquake to be used as the source of ground motion that can affect the site, locates the postulated earthquake according to prescribed rules, and then calculates ground motions at the site.

Although this approach has worked reasonably well for the past two decades, in the sense that SSEs for plants sited with this approach are judged to be suitably conservative, the approach has not explicitly recognized uncertainties in geosciences parameters. Because so little is known about earthquake phenomena (especially in the eastern United States), there have often been differences of opinion and differing interpretations among experts as to the largest earthquakes to be considered and ground-motion models to be used, thus often making the licensing process relatively unstable.

Over the past decade, analysis methods for incorporating these different interpretations have been developed and used. These "probabilistic" methods have been designed to allow explicit incorporation of different models for zonation, earthquake size, ground motion, and other parameters. The advantage of using these probabilistic methods is their ability to not only incorporate different models and different data sets, but also to weight them using judgments as to the validity of the different models and data sets, and thereby providing an explicit expression for the uncertainty in the ground motion estimates and a means of assessing sensitivity to various input parameters. Another advantage of the probabilistic method is the target exceedance probability is set by examining the design bases of more recently licensed nuclear power plants.

The proposed revision to the regulation now explicitly recognizes that there are inherent uncertainties in establishing the seismic and geologic design parameters and allows for the option of using a probabilistic seismic hazard methodology capable of propagating uncertainties as a means to address these uncertainties. The rule further recognizes that the nature of uncertainty and the appropriate approach to account for it depend greatly on the tectonic regime and parameters, such as, the knowledge of seismic sources, the existence of historical and recorded data, and the understanding of tectonics. Therefore, methods other than the probabilistic methods, such as sensitivity analyses, may be adequate for some sites to account for uncertainties.

The NRC staff has achieved an appropriate balance between

deterministic and probabilistic seismic hazard evaluations to be used in the revision of the seismic and geologic siting criteria for nuclear power plants. The key elements of this balanced approach are:

—Conduct site-specific and regional geoscience investigations,
—Target exceedance probability is set by examining the design bases of more recently licensed nuclear power plants,
—Conduct probabilistic seismic hazard analysis and determine ground motion level corresponding to the target exceedance probability,
—Determine if information from geoscience investigations change probabilistic results,
—Determine site-specific spectral shape and scale this shape to the ground motion level determined above,
—NRC staff review using all available data including insights and information from previous licensing experience, and
—Update the data base and reassess probabilistic methods at least every ten years.

Thus, the proposed approach requires thorough regional and site-specific geoscience investigations. The proposed approach reflects some of the comments of the U.S. utility industry. The U.S. Geological Survey provided a series of comments and recommendations that led to and can be met by the above integrated approach.

Results of the regional and site-specific investigations must be considered in application of the probabilistic method. The current probabilistic methods, the NRC sponsored study conducted by Lawrence Livermore National Laboratory (LLNL) or the Electric Power Research Institute (EPRI) seismic hazard study, are essentially regional studies without detailed information on any specific location. The regional and site-specific investigations provide detailed information to update the database of the hazard methodology to make the probabilistic analysis site-specific.

It is also necessary to incorporate local site geological factors such as stratigraphy and topography and to account for site-specific geotechnical properties in establishing the design basis ground motion. In order to incorporate local site factors and advances in ground motion attenuation models, ground motion estimates are determined using the procedures outlined in the Draft Standard Review Plan Section 2.5.2, Second Proposed Revision 3, "Vibratory Ground Motion."

Methods acceptable to the NRC staff for implementing the proposed regulation are described in Draft Regulatory Guide DG–1032, "Identification and Characterization of Seismic Sources and Determination of Safe Shutdown Earthquake Ground Motions."

The NRC staff's review approach to evaluate an application is described in Draft SRP Section 2.5.2. This review takes into account the information base developed in licensing more than 100 plants. This staff review is consistent with the intent of a USGS recommendation. Although the basic premise in establishing the target exceedance probability is that the current design levels are adequate, a staff review further assures that there is consistency with previous licensing decisions and that the scientific basis for decisions are clearly understood. This review approach will also assist in assessing the fairly complex regional probabilistic modeling which incorporates multiple hypotheses and a multitude of parameters. Furthermore, this process should provide a clear basis for the staff's decisions and facilitate communication with nonexperts.

4. Safe Shutdown Earthquake

The existing regulation (10 CFR part 100, appendix A, section V(a)(1)(iv)) states "The maximum vibratory accelerations of the Safe Shutdown Earthquake at each of the various foundation locations of the nuclear power plant structures at a given site shall be determined * * *". The location of the seismic input motion control point as stated in the existing regulation has led to confrontations with many applicants that believe this stipulation is inconsistent with good engineering fundamentals.

The proposed regulation would move the location of the seismic input motion control point from the foundation-level to the free-field at the free ground surface. The 1975 version of the Standard Review Plan placed the control motion in the free-field. The proposed regulation is also consistent with the resolution of Unresolved Safety Issue (USI) A–40, "Seismic Design Criteria" (August 1989), that resulted in the revision of Standard Review Plan Sections 2.5.2, 3.7.1, 3.7.2, and 3.7.3. However, the proposed regulation requires that the horizontal component of the Safe Shutdown Earthquake Ground Motion in the free-field at the foundation level of the structures must be an appropriate response spectrum considering the site geotechnical properties, with a peak ground acceleration of at least 0.1g.

5. Value of the Operating Basis Earthquake Ground Motion (OBE) and Required OBE Analyses

The existing regulation (10 CFR, appendix A, section V(a)(2)) states that the maximum vibratory ground motion of the OBE is at least one half the maximum vibratory ground motion of the Safe Shutdown Earthquake ground motion. Also, the existing regulation (10 CFR, appendix A, section VI(a)(2)) states that the engineering method used to insure that structures, systems, and components are capable of withstanding the effects of the OBE shall involve the use of either a suitable dynamic analysis or a suitable qualification test. In some cases, for instance piping, these multi-facets of the OBE in the existing regulation made it possible for the OBE to have more design significance than the SSE. A decoupling of the OBE and SSE has been suggested in several documents. For instance, the NRC staff, SECY–79–300, suggested that design for a single limiting event and inspection and evaluation for earthquakes in excess of some specified limit may be the most sound regulatory approach. NUREG–1061, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee," Vol. 5, April 1985, (Table 10.1) ranked a decoupling of the OBE and SSE as third out of six high priority changes. In SECY–90–016, "Evolutionary Light Water Reactor (LWR) Certification Issues and Their Relationship to Current Regulatory Requirements," the NRC staff states that it agrees that the OBE should not control the design of safety systems.

Activities equivalent to OBE–SSE decoupling are also being done in foreign countries. For instance, in Germany their new design standard requires only one design basis earthquake (equivalent to the SSE). They require an inspection-level earthquake (for shutdown) of 0.4 SSE. This level was set so that the vibratory ground motion should not induce stresses exceeding the allowable stress limits originally required for the OBE design.

The proposed regulation would allow the value of the OBE to be set at (i) one-third or less of the SSE, where OBE requirements are satisfied without an explicit response or design analyses being performed, or (ii) a value greater than one-third of the SSE, where analysis and design are required. There are two issues the applicant should consider in selecting the value of the OBE: first, plant shutdown is required if vibratory ground motion exceeding that of the OBE occurs (discussed below in Item 6, Required Plant Shutdown), and

second, the amount of analyses associated with the OBE. An applicant may determine that at one-third of the SSE level, the probability of exceeding the OBE vibratory ground motion is too high, and the cost associated with plant shutdown for inspections and testing of equipment and structures prior to restarting the plant is unacceptable. Therefore, the applicant may voluntarily select an OBE value at some higher fraction of the SSE to avoid plant shutdowns. However, if an applicant selects an OBE value at a fraction of the SSE higher than one-third, a suitable analysis shall be performed to demonstrate that the requirements associated with the OBE are satisfied. The design shall take into account soil-structure interaction effects and the expected duration of the vibratory ground motion. The requirement associated with the OBE is that all structures, systems, and components of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public shall remain functional and within applicable stress, strain and deformation limits when subjected to the effects of the OBE in combination with normal operating loads.

As stated above, it is determined that if an OBE of one-third of the SSE is used, the requirements of the OBE can be satisfied without the applicant performing any explicit response analyses. In this case, the OBE serves the function of an inspection and shutdown earthquake. Some minimal design checks and the applicability of this position to seismic base isolation of buildings are discussed below. There is high confidence that, at this ground-motion level with other postulated concurrent loads, most critical structures, systems, and components will not exceed currently used design limits. This is ensured, in part, because PRA insights will be used to support a margins-type assessment of seismic events. A PRA-based seismic margins analysis will consider sequence-level High Confidence, Low Probability of Failures (HCLPFs) and fragilities for all sequences leading to core damage or containment failures up to approximately one and two-thirds the ground motion acceleration of the design basis SSE (Reference: Item II.N, Site-Specific Probabilistic Risk Assessment and Analysis of External Events, memorandum from Samuel J. Chilk to James M. Taylor, Subject: SECY–93–087—Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advance Light-Water Reactor (ALWR) Designs, dated July 21, 1993.

There are situations associated with current analyses where only OBE is associated with the design requirements, for example, the ultimate heat sink (see Regulatory Guide 1.27, "Ultimate Heat Sink for Nuclear Power Plants"). In these situations, a value expressed as a fraction of the SSE response would be used in the analyses. Section VIII of this proposed rule identifies existing guides that would be revised technically to maintain the existing design philosophy.

In SECY–93–087, "Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advance Light-Water Reactor (ALWR) Designs," the NRC staff requested Commission approval on 42 technical and policy issues pertaining to either evolutionary LWRs, passive LWRs, or both. The issue pertaining to the elimination of the OBE is designated I.M. The NRC staff identified actions necessary for the design of structures, systems, and components when the OBE design requirement is eliminated. The staff clarified that guidelines should be maintained to ensure the functionality of components, equipment, and their supports. In addition, the staff clarified how certain design requirements are to be considered for buildings and structures that are currently designed for the OBE, but not the SSE. Also, the NRC staff has evaluated the effect on safety of eliminating the OBE from the design load combinations for selected structures, systems, and components and has developed proposed criteria for an analysis using only the SSE. Commission approval is documented in the Chilk to Taylor memorandum dated July 21, 1993, cited above.

More than one earthquake response analysis for a seismic base isolated nuclear power plant design may be necessary to ensure adequate performance at all earthquake levels. Decisions pertaining to the response analyses associated with base isolated facilities will be handled on a case by case basis.

6. Required Plant Shutdow

The current regulation (Section V(a)(2)) states that if vibratory ground motion exceeding that of the OBE occurs, shutdown of the nuclear power plant is required. The supplementary information to the final regulation (published November 13, 1973; 38 FR 31279, Item 6e) includes the following statement: "A footnote has been added to § 50.36(c)(2) of 10 CFR part 50 to assure that each power plant is aware of the limiting condition of operation which is imposed under section V(2) of appendix A to 10 CFR part 100. This limitation requires that if vibratory ground motion exceeding that of the OBE occurs, shutdown of the nuclear power plant will be required. Prior to resuming operations, the licensee will be required to demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public." At that time, it was the intention of the Commission to treat the Operating Basis Earthquake as a limiting condition of operation. From the statement in the Supplementary Information, the Commission directed applicants to specifically review 10 CFR Part 100 to be aware of this intention in complying with the requirements of 10 CFR 50.36. Thus, the requirement to shut down if an OBE occurs was expected to be implemented by being included among the technical specifications submitted by applicants after the adoption of Appendix A. In fact, applicants did not include OBE shutdown requirements in their technical specifications.

The proposed regulation would treat plant shutdown associated with vibratory ground motion exceeding the OBE or significant plant damage as a condition in every operating license. A new § 50.54(ff) would be added to the regulations to require a process leading to plant shutdown for licensees of nuclear power plants that comply with the earthquake engineering criteria in Paragraph IV(a)(3) of Proposed Appendix S, "Earthquake Engineering Criteria for Nuclear Power Plants," to 10 CFR part 50. Immediate shutdown could be required until it is determined that structures, systems, and components needed for safe shutdown are still functional.

Draft Regulatory Guide DG–1034, "Pre-Earthquake Planning and Immediate Nuclear Power Plant Operator Post-Earthquake Actions," is being developed to provide guidance acceptable to the NRC staff for determining whether or not vibratory ground motion exceeding the OBE ground motion or significant plant damage had occurred and the timing of nuclear power plant shutdown. The guidance is based on criteria developed by the Electric Power Research Institute (EPRI). The decision to shut down the plant should be made within eight hours after the earthquake. The data from the seismic instrumentation, coupled with information obtained from a plant walk down, are used to make the determination of when the plant should be shut down, if it has not already been shut down by operational perturbations

resulting from the seismic event. The guidance being developed in Draft Regulatory Guide DG–1034 is based on two assumptions, first, that the nuclear power plant has operable seismic instrumentation, including the equipment and software required to process the data within four hours after an earthquake, and second, that the operator walk down inspections can be performed in approximately four to eight hours depending on the number of personnel conducting the inspection. The regulation also includes a provision that requires the licensee to consult with the Commission and to propose a plan for the timely, safe shutdown of the nuclear power plant if systems, structures, or components necessary for a safe shutdown or to maintain a safe shutdown are not available. (This unavailability may be due to earthquake related damage.)

Draft Regulatory Guide DG–1035, "Restart of a Nuclear Power Plant Shut Down by a Seismic Event," is being developed to provide guidelines that are acceptable to the NRC staff for performing inspections and tests of nuclear power plant equipment and structures prior to plant restart. This guidance is also based on EPRI reports. Prior to resuming operations, the licensee must demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public. The results of post-shutdown inspections, operability checks, and surveillance tests must be documented in written reports and submitted to the Director, Office of Nuclear Reactor Regulation. The licensee shall not resume operation until authorized to do so by the Director, Office of Nuclear Reactor Regulation.

7. Clarify Interpretations

In § 100.23 to 10 CFR part 100, changes have been made to resolve questions of interpretation. As an example, definitions and required investigations stated in the proposed regulation would be significantly changed to eliminate or modify phrases that were more applicable to only the western part of the United States.

The institutional definition for "safety-related structures, systems, and components" is drawn from appendix A to part 100 under III(c) and VI(a). With the proposed relocation of the earthquake engineering criteria to appendix S to part 50 and the proposed relocation and modification to dose guidelines in § 50.34(a)(1), the definition of safety-related structures, systems, and components is included in part 50 definitions with reference to both the part 100 and part 50 dose guidelines.

VI. Related Regulatory Guides and Standard Review Plan Section

The NRC is developing the following draft regulatory guides and standard review plan sections to provide prospective licensees with the necessary guidance for implementing the proposed regulation. The notice of availability for these materials will be published in a later issue of the **Federal Register**.

1. DG–1032, "Identification and Characterization of Seismic Sources and Determination of Shutdown Earthquake Ground Motions." The draft guide provides general guidance and recommendations, describes acceptable procedures and provides a list of references that present acceptable methodologies to identify and characterize capable tectonic sources and seismogenic sources. Section V.B.3 of this Proposed rule describes the key elements.

2. DG–1033, Third Proposed Revision 2 to Regulatory Guide 1.12, "Nuclear Power Plant Instrumentation for Earthquakes." The draft guide describes seismic instrumentation type and location, operability, characteristics, installation, actuation, and maintenance that are acceptable to the NRC staff.

3. DG–1034, "Pre-Earthquake Planning and Immediate Nuclear Power Plant Operator Post-Earthquake Actions." The draft guide provides guidelines that are acceptable to the NRC staff for a timely evaluation of the recorded seismic instrumentation data and to determine whether or not plant shutdown is required.

4. DG–1035, "Restart of a Nuclear Power Plant Shut Down by a Seismic Event." The draft guide provides guidelines that are acceptable to the NRC staff for performing inspections and tests of nuclear power plant equipment and structures prior to restart of a plant that has been shut down because of a seismic event.

5. Draft Standard Review Plan Section 2.5.1, Proposed Revision 3, "Basic Geologic and Seismic Information." The draft describes procedures to assess the adequacy of the geologic and seismic information cited in support of the applicant's conclusions concerning the suitability of the plant site.

6. Draft Standard Review Plan Section 2.5.2, Second Proposed Revision 3 "Vibratory Ground Motion." The draft describes procedures to assess the ground motion potential of seismic sources at the site and to assess the adequacy of the SSE.

7. Draft Standard Review Plan Section 2.5.3, Proposed Revision 3, "Surface Faulting." The draft describes procedures to assess the adequacy of the applicant's submittal related to the existence of a potential for surface faulting affecting the site.

8. DG–4003, Second Proposed Revision 2 to Regulatory Guide 4.7, "General Site Suitability Criteria for Nuclear Power Plants." This guide discusses the major site characteristics related to public health and safety and environmental issues that the NRC staff considers in determining the suitability of sites.

VII. Future Regulatory Action

Several existing regulatory guides will be revised to incorporate editorial changes or maintain the existing design or analysis philosophy. These guides will be issued subsequent to the publication of the final regulations that would implement this proposed action.

The following regulatory guides will be revised to incorporate editorial changes, for example to reference new sections to part 100 or appendix S to part 50. No technical changes will be made in these regulatory guides.

1. 1.57, "Design Limits and Loading Combinations for Metal Primary Reactor Containment System Components."

2. 1.59, "Design Basis Floods for Nuclear Power Plants."

3. 1.60, "Design Response Spectra for Seismic Design of Nuclear Power Plants."

4. 1.83, "Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes."

5. 1.92, "Combining Modal Responses and Spatial Components in Seismic Response Analysis."

6. 1.102, "Flood Protection for Nuclear Power Plants."

7. 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes."

8. 1.122, "Development of Floor Design Response Spectra for Seismic Design of Floor-Supported Equipment or Components."

The following regulatory guides will be revised to update the design or analysis philosophy, for example, to change OBE to a fraction of the SSE:

1. 1.27, "Ultimate Heat Sink for Nuclear Power Plants."

2. 1.100, "Seismic Qualification of Electric and Mechanical Equipment for Nuclear Power Plants."

3. 1.124, "Service Limits and Loading Combinations for Class 1 Linear-Type Component Supports."

4. 1.130, "Service Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Component Supports."

5. 1.132, "Site Investigations for Foundations of Nuclear Power Plants."

6. 1.138, "Laboratory Investigations of Soils for Engineering Analysis and Design of Nuclear Power Plants."

7. 1.142, "Safety-Related Concrete Structures for Nuclear Power Plants (Other than Reactor Vessels and Containments)."

8. 1.143, "Design Guidance for Radioactive Waste Management Systems, Structures, and Components Installed in Light-Water-Cooled Nuclear Power Plants."

Minor and conforming changes to other Regulatory Guides and standard review plan sections as a result of proposed changes in the nonseismic criteria are also planned. If substantive changes are made during the revisions, the applicable guides will be issued for public comment as draft guides.

VIII. Referenced Documents

An interested person may examine or obtain copies of the documents referenced in this proposed rule as set out below:

Copies of NUREG–0625, NUREG–1150, and NUREG/CR–2239 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Copies of issued regulatory guides may be purchased from the Government Printing Office (GPO) at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402–9328. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5826 Port Royal Road, Springfield, VA 22161.

SECY 79–300, SECY 90–016, SECY 93–087, and WASH–1400 are available for inspection and copying for a fee at the Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

IX. Submission of Comments in Electronic Format

The comment process will be improved if each comment is identified with the document title, section heading, and paragraph number addressed. Commenters are encouraged to submit, in addition to the original paper copy, a copy of the letter in electronic format on 5.25 or 3.5 inch computer diskette; IBM PC/DOS or MS/DOS format. Data files should be provided in one of the following formats: WordPerfect, IBM Document Content Architecture/Revisable-Form-Text (DCA/RFT), or unformatted ASCII code. The format and version should be identified on the diskette's external label.

X. Questions

In addition to soliciting comments on all aspects of this rulemaking, the Commission specifically requests comments on the following questions.

A. Nonseismic Criteria

1. Should the dose acceptance criteria be modified from 25 rem whole body and 300 rem to the thyroid to utilize the concept of total effective dose equivalent (TEDE), and if so, what TEDE value should be adopted?

2. Assuming that a dose acceptance criterion of 25 rem total effective dose equivalent (TEDE) is adopted, should an organ limitation or "capping" dose be included, and if so, what should such a limit be?

XI. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this proposed regulation, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required.

The revisions associated with the reactor siting criteria in 10 CFR part 100 and the relocation of the plant design requirements from 10 CFR part 100 to 10 CFR Part 50 have been evaluated against the current requirements. The Commission has concluded that relocating the requirement for a dose calculation to Part 50 and adding more specific site criteria to part 100 does not decrease the protection of the public health and safety over the current regulations. The proposed amendments do not affect nonradiological plant effluents and have no other environmental impact.

The addition of § 100.23 to 10 CFR part 100, and the addition of appendix S to 10 CFR part 50, will not change the radiological environmental impact offsite. Onsite occupational radiation exposure associated with inspection and maintenance will not change. These activities are principally associated with base line inspections of structures, equipment, and piping, and with maintenance of seismic instrumentation. Base line inspections are needed to differentiate between pre-existing conditions at the nuclear power plant and earthquake related damage. The structures, equipment and piping selected for these inspections are those routinely examined by plant operators during normal plant walkdowns and inspections. Routine maintenance of seismic instrumentation ensures its operability during earthquakes. The location of the seismic instrumentation is similar to that in the existing nuclear power plants. The proposed amendments do not affect nonradiological plant effluents and have no other environmental impact.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Mr. Leonard Soffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6574, or Dr. Andrew Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6010.

XII. Paperwork Reduction Act Statement

This proposed regulation amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This proposed regulation has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

There is no public reporting burden related to the nonseismic siting criteria. Public reporting burden for the collection of information related to the seismic and earthquake engineering criteria is estimated to average 800,000 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202,

(3150–0011 and 3150–0093), Office of Management and Budget, Washington, DC 20503.

XIII. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis are available from Mr. Leonard Soffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6574, or Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6010.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

XIV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed regulation affects only the licensing and operation of nuclear power plants. Nuclear power plant site applicants do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632), the Small Business Size Standards of the Small Business Administrator (13 CFR part 121), or the Commission's Size Standards (56 FR 56671; November 6, 1991).

XV. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed regulation, and therefore, a backfit analysis is not required for this proposed regulation because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1). The proposed regulation would apply only to applicants for future nuclear power plant construction permits, preliminary design approval, final design approval, manufacturing licenses, early site reviews, operating licenses, and combined operating licenses.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 100

Nuclear power plants and reactors, Reactor siting criteria.

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. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50, 52 and 100.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd) and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91 and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.2 is amended by adding in alphabetical order the definitions for *Committed dose equivalent, Committed effective dose equivalent, Deep-dose equivalent, Exclusion area, Low population zone, Safety-related structures, systems, and components* and *Total effective dose equivalent* to read as follows:

§ 50.2 Definitions.

* * * * *

Committed dose equivalent means the dose equivalent to organs or tissues of reference that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

Committed effective dose equivalent is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues.

* * * * *

Deep-dose equivalent, which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm^2).

* * * * *

Exclusion area means that area surrounding the reactor, in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel and property from the area. This area may be traversed by a highway, railroad, or waterway, provided these are not so close to the facility as to interfere with normal operations of the facility and provided appropriate and effective arrangements are made to control traffic on the highway, railroad, or waterway, in case of emergency, to protect the public health and safety. Residence within the exclusion area shall normally be prohibited. In any event, residents shall be subject to ready removal in case of necessity. Activities unrelated to operation of the reactor may be permitted in an exclusion area under appropriate limitations, provided that no significant hazards to the public health and safety will result.

* * * * *

Low population zone means the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. These guides do not specify a permissible population density or total population within this zone because the situation

may vary from case to case. Whether a specific number of people can, for example, be evacuated from a specific area, or instructed to take shelter, on a timely basis will depend on many factors such as location, number and size of highways, scope and extent of advance planning, and actual distribution of residents within the area.

* * * * *

Safety-related structures, systems, and components means those structures, systems, and components that are relied on to remain functional during and following design basis (postulated) events to assure:

(1) The integrity of the reactor coolant pressure boundary,

(2) The capability to shutdown the reactor and maintain it in a safe shutdown condition, and

(3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the applicable guideline exposures set forth in § 50.34(a)(1) or § 100.11 of this chapter.

* * * * *

Total effective dose equivalent (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

* * * * *

3. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.65, 50.71, 50.72, 50.80, 50.82, 50.90, 50.91, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S.

* * * * *

4. In § 50.34, footnotes 6, 7, and 8 are redesignated as footnotes 8, 9 and 10 and paragraph (a)(1) is revised and paragraphs (a)(12), (b)(10), and (b)(11) are added to read as follows:

§ 50.34 Contents of applications; technical information.

(a) * * *

(1) Stationary power reactor applicants for a construction permit pursuant to this part, or a design certification or combined license pursuant to Part 52 of this chapter who apply on or after [EFFECTIVE DATE OF THE FINAL RULE], shall comply with paragraph (a)(1)(ii) of this section. All other applicants for a construction permit pursuant to this part or a design certification or combined license pursuant to part 52 of this chapter, shall comply with paragraph (a)(1)(i) of this section.

(i) A description and safety assessment of the site on which the facility is to be located, with appropriate attention to features affecting facility design. Special attention should be directed to the site evaluation factors identified in part 100 of this chapter. The assessment must contain an analysis and evaluation of the major structures, systems and components of the facility which bear significantly on the acceptability of the site under the site evaluation factors identified in part 100 of this chapter, assuming that the facility will be operated at the ultimate power level which is contemplated by the applicant. With respect to operation at the projected initial power level, the applicant is required to submit information prescribed in paragraphs (a)(2) through (a)(8) of this section, as well as the information required by this paragraph, in support of the application for a construction permit, or a design approval.

(ii) A description and safety assessment of the site and a safety assessment of the facility. It is expected that reactors will reflect through their design , construction and operation an extremely low probability for accidents that could result in the release of significant quantities of radioactive fission products. The following power reactor design characteristics and proposed operation will be taken into consideration by the Commission:

(A) Intended use of the reactor including the proposed maximum power level and the nature and inventory of contained radioactive materials;

(B) The extent to which generally accepted engineering standards are applied to the design of the reactor;

(C) The extent to which the reactor incorporates unique, unusual or enhanced safety features having a significant bearing on the probability or consequences of accidental release of radioactive materials;

(D) The safety features that are to be engineered into the facility and those barriers that must be breached as a result of an accident before a release of radioactive material to the environment can occur. Special attention must be directed to plant design features intended to mitigate the radiological consequences of accidents. In performing this assessment, an applicant shall assume a fission product release[6] from the core into the containment assuming that the facility is operated at the ultimate power level contemplated. The applicant shall perform an evaluation and analysis of the postulated fission product release, using the expected demonstrable containment leak rate and any fission product cleanup systems intended to mitigate the consequences of the accidents, together with applicable site characteristics, including site meteorology, to evaluate the offsite radiological consequences. Site characteristics must comply with part 100 of this chapter. The evaluation must determine that:

(*1*) An individual located at any point on the boundary of the exclusion area for any 2 hour period following the onset of the postulated fission product release, would not receive a radiation dose in excess of 25[7] rem total effective dose equivalent (TEDE).

(*2*) An individual located at any point on the outer boundary of the low population zone, who is exposed to the radioactive cloud resulting from the postulated fission product release (during the entire period of its passage) would not receive a radiation dose in excess of 25 rem total effective dose equivalent (TEDE).

(E) With respect to operation at the projected initial power level, the applicant is required to submit information prescribed in paragraphs (a)(2) through (a)(8) of this section, as well as the information required by this paragraph, in support of the application for a construction permit, or a design approval.

* * * * *

(12) On or after [EFFECTIVE DATE OF THE FINAL RULE], stationary power reactor applicants who apply for a construction permit pursuant to this

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[6] The fission product release assumed for this evaluation should be based upon a major accident, hypothesized for purposes of site analysis or postulated from considerations of possible accidental events. Such accidents have generally been assumed to result in substantial meltdown of the core with subsequent release into the containment of appreciable quantities of fission products.

[7] A whole body does of 25 rem has been stated to correspond numerically to the once in a lifetime accidental or emergency dose for radiation workers which, according to NCRP recommendations at the time could be disregarded in the determination of their radiation expousre status (see NBS Handbook 69 dated June 5, 1959). However, its use is not intended to imply that this number constitutes an acceptable limit for an emergency does to the public under accident conditions. Rather, this does value has been set forth in this section as a reference value, which can be used in the evaluation of plant design features with respect to postulated reactor accidents, in order to assure that such designs provide assurance of low risk of public exposure to radiation, in the event of such accidents.

part, or a design certification or combined license pursuant to part 52 of this chapter, as partial conformance to General Design Criterion 2 of appendix A to this part, shall comply with the earthquake engineering criteria in appendix S of this part.

(b) * * *

(10) On or after [EFFECTIVE DATE OF THE FINAL RULE], stationary power reactor applicants who apply for an operating license pursuant to this part, or a design certification or combined license pursuant to part 52 of this chapter, as partial conformance to General Design Criterion 2 of appendix A to this part, shall comply with the earthquake engineering criteria of appendix S to this part. However, if the construction permit was issued prior to [EFFECTIVE DATE OF THE FINAL RULE], the stationary power reactor applicant shall comply with the earthquake engineering criteria in Section VI of appendix A to part 100 of this chapter.

(11) On or after [EFFECTIVE DATE OF THE FINAL RULE], stationary power reactor applicants who apply for an operating license pursuant to this Part, or a combined license pursuant to part 52 of this chapter, shall provide a description and safety assessment of the site and of the facility as in § 50.34(a)(1)(ii) of this part.

* * * * *

5. In § 50.54, paragraph (ff) is added to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(ff) For licensees of nuclear power plants that have implemented the earthquake engineering criteria in appendix S of this part, plant shutdown is required as provided in paragraph IV(a)(3) of appendix S. Prior to resuming operations, the licensee shall demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public and the licensing basis is maintained.

6. Appendix S to Part 50 is added to read as follows:

Appendix S to Part 50—Earthquake Engineering Criteria for Nuclear Power Plants

General Information

This appendix applies to applicants for a design certification or combined license pursuant to part 52 of this chapter or a construction permit or operating license pursuant to Part 50 of this chapter on or after [EFFECTIVE DATE OF THE FINAL RULE]. However, if the construction permit was issued prior to [EFFECTIVE DATE OF THE FINAL RULE], the operating license applicant shall comply with the earthquake engineering criteria in Section VI of appendix A to 10 CFR part 100.

I. Introduction

Each applicant for a construction permit, operating license, design certification, or combined license is required by § 50.34(a)(12), (b)(10), and General Design Criterion 2 of appendix A to this part to design nuclear power plant structures, systems, and components important to safety to withstand the effects of natural phenomena, such as earthquakes, without loss of capability to perform their safety functions. Also, as specified in § 50.54(ff), nuclear power plants that have implemented the earthquake engineering criteria described herein must shut down if the criteria in paragraph IV(a)(3) of this appendix are exceeded.

These criteria implement General Design Criterion 2 insofar as it requires structures, systems, and components important to safety to withstand the effects of earthquakes.

II. Scope

The evaluations described in this appendix are within the scope of investigations permitted by § 50.10(c)(1).

III. Definitions

As used in these criteria:

Combined license means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to subpart C of part 52 of this chapter.

Design Certification means a Commission approval, issued pursuant to subpart B of part 52 of this chapter, of a standard design for a nuclear power facility. A design so approved may be referred to as a "certified standard design."

The *Operating Basis Earthquake Ground Motion (OBE)* is the vibratory ground motion for which those features of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public will remain functional. The Operating Basis Earthquake Ground Motion is only associated with plant shutdown and inspection unless specifically selected by the applicant as a design input.

A *response spectrum* is a plot of the maximum responses (acceleration, velocity, or displacement) of idealized single-degree-of-freedom oscillators as a function of the natural frequencies of the oscillators for a given damping value. The response spectrum is calculated for a specified vibratory motion input at the oscillators' supports.

The *Safe Shutdown Earthquake Ground Motion* (SSE) is the vibratory ground motion for which certain structures, systems, and components must be designed to remain functional.

The *structures, systems, and components required to withstand the effects of the Safe Shutdown Earthquake Ground Motion or surface deformation* are those necessary to assure:

(1) The integrity of the reactor coolant pressure boundary,

(2) The capability to shut down the reactor and maintain it in a safe shutdown condition, or

(3) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guideline exposures of § 50.34(a)(1)(ii).

Surface deformation is distortion of geologic strata at or near the ground surface by the processes of folding or faulting as a result of various earth forces. Tectonic surface deformation is associated with earthquake processes.

IV. Application to Engineering Design

The following are pursuant to the seismic and geologic design basis requirements of § 100.23 of this chapter:

(a) Vibratory Ground Motion.

(1) Safe Shutdown Earthquake Ground Motion. The Safe Shutdown Earthquake Ground Motion must be characterized by free-field ground motion response spectra at the free ground surface. In view of the limited data available on vibratory ground motions of strong earthquakes, it usually will be appropriate that the design response spectra be smoothed spectra. The horizontal component of the Safe Shutdown Earthquake Ground Motion in the free-field at the foundation level of the structures must be an appropriate response spectrum with a peak ground acceleration of at least 0.1g.

The nuclear power plant must be designed so that, if the Safe Shutdown Earthquake Ground Motion occurs, certain structures, systems, and components will remain functional and within applicable stress, strain, and deformation limits. In addition to seismic loads, applicable concurrent normal operating, functional, and accident-induced loads must be taken into account in the design of these safety-related structures, systems, and components. The design of the nuclear power plant must also take into account the possible effects of the Safe Shutdown Earthquake Ground Motion on the facility foundations by ground disruption, such as fissuring, lateral spreads, differential settlement, liquefaction, and landsliding, as required in § 100.23 to part 100 of this chapter.

The required safety functions of structures, systems, and components must be assured during and after the vibratory ground motion associated with the Safe Shutdown Earthquake Ground Motion through design, testing, or qualification methods.

The evaluation must take into account soil-structure interaction effects and the expected duration of vibratory motion. It is permissible to design for strain limits in excess of yield strain in some of these safety-related structures, systems, and components during the Safe Shutdown Earthquake Ground Motion and under the postulated concurrent loads, provided the necessary safety functions are maintained.

(2) Operating Basis Earthquake Ground Motion.

(i) The Operating Basis Earthquake Ground Motion must be characterized by response spectra. The value of the Operating Basis Earthquake Ground Motion must be set to one of the following choices:

(A) One-third or less of the Safe Shutdown Earthquake Ground Motion design response

spectra. The requirements associated with this Operating Basis Earthquake Ground Motion in paragraph (a)(2)(i)(B)(I) can be satisfied without the applicant performing explicit response or design analyses, or

(B) A value greater than one-third of the Safe Shutdown Earthquake Ground Motion design response spectra. Analysis and design must be performed to demonstrate that the requirements associated with this Operating Basis Earthquake Ground Motion in paragraph (a)(2)(i)(B)(I) are satisfied. The design must take into account soil-structure interaction effects and the duration of vibratory ground motion.

(I) When subjected to the effects of the Operating Basis Earthquake Ground Motion in combination with normal operating loads, all structures, systems, and components of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public must remain functional and within applicable stress, strain, and deformation limits.

(3) Required Plant Shutdown. If vibratory ground motion exceeding that of the Operating Basis Earthquake Ground Motion or if significant plant damage occurs, the licensee must shut down the nuclear power plant. If systems, structures, or components necessary for the safe shutdown of the nuclear power plant are not available after the occurrence of the OBE, the licensee must consult with the Commission and must propose a plan for the timely, safe shutdown of the nuclear power plant. Prior to resuming operations, the licensee must demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public.

(4) Required Seismic Instrumentation. Suitable instrumentation must be provided so that the seismic response of nuclear power plant features important to safety can be evaluated promptly after an earthquake.

(b) Surface Deformation. The potential for surface deformation must be taken into account in the design of the nuclear power plant by providing reasonable assurance that in the event of deformation, certain structures, systems, and components will remain functional. In addition to surface deformation induced loads, the design of safety features must take into account seismic loads, including aftershocks, and applicable concurrent functional and accident-induced loads. The design provisions for surface deformation must be based on its postulated occurrence in any direction and azimuth and under any part of the nuclear power plant, unless evidence indicates this assumption is not appropriate, and must take into account the estimated rate at which the surface deformation may occur.

(c) Seismically Induced Floods and Water Waves and Other Design Conditions. Seismically induced floods and water waves from either locally or distantly generated seismic activity and other design conditions determined pursuant to § 100.23 of this chapter must be taken into account in the design of the nuclear power plant so as to prevent undue risk to the health and safety of the public.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

8. In § 52.17, the introductory text of paragraph (a)(1) and paragraph (a)(1)(vi) are revised to read as follows:

§ 52.17 Contents of applications.

(a)(1) The application must contain the information required by § 50.33 (a) through (d), the information required by § 50.34 (a)(12) and (b)(10), and to the extent approval of emergency plans is sought under paragraph (b)(2)(ii) of this section, the information required by § 50.33 (g) and (j), and § 50.34 (b)(6)(v). The application must also contain a description and safety assessment of the site on which the facility is to be located. The assessment must contain an analysis and evaluation of the major structures, systems, and components of the facility that bear significantly on the acceptability of the site under the radiological consequence evaluation factors identified in § 50.34(a)(1) of this chapter. Site characteristics must comply with part 100 of this chapter. In addition, the application should describe the following:

* * * * *

(vi) The seismic, meteorological, hydrologic, and geologic characteristics of the proposed site;

* * * * *

PART 100—REACTOR SITE CRITERIA

9. and 10. The authority citation for Part 100 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 68 Stat. 936, 937, 948, 953, as amended (42 U.S.C. 2133, 2134, 2201, 2232); sec. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

11. Section 100.1 is revised to read as follows:

§ 100.1 Purpose.

(a) The purpose of this part is to establish approval requirements for proposed sites for stationary power and testing reactors subject to part 50 or part 52 of this chapter.

(b) There exists a substantial base of knowledge regarding power reactor siting, design, construction and operation. This base reflects that the primary factors that determine public health and safety are the reactor design, construction and operation.

(c) Siting factors and criteria are important in assuring that radiological doses from normal operation and postulated accidents will be acceptably low, that natural phenomena and potential man-made hazards will be appropriately accounted for in the design of the plant, and that the site characteristics are amenable to the development of adequate emergency plans to protect the public and adequate security measures to protect the plant.

(d) This approach incorporates the appropriate standards and criteria for approval of stationary power and testing reactor sites. The Commission intends to carry out a traditional defense-in-depth approach with regard to reactor siting to ensure public safety. Siting away from densely populated centers has been and will continue to be an important factor in evaluating applications for site approval.

12. Section 100.2 is revised to read as follows:

§ 100.2 Scope.

The siting requirements contained in this part apply to applications for site approval for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of parts 50 or 52 of this chapter.

13. Section 100.3 is revised to read as follows:

§ 100.3 Definitions.

As used in this part:

Combined license means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to subpart C of part 52 of this chapter.

Early site permit means a Commission approval, issued pursuant to subpart A of part 52 of this chapter, for a site or sites for one or more nuclear power facilities.

Exclusion area means that area surrounding the reactor, in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel and property from the area. This area may be traversed by a highway, railroad, or waterway, provided these are not so close to the facility as to interfere with normal operations of the facility and provided appropriate and effective arrangements are made to control traffic on the highway, railroad, or waterway, in case of emergency, to protect the public health and safety. Residence within the exclusion area shall normally

be prohibited. In any event, residents shall be subject to ready removal in case of necessity. Activities unrelated to operation of the reactor may be permitted in an exclusion area under appropriate limitations, provided that no significant hazards to the public health and safety will result.

Low population zone means the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. These guides do not specify a permissible population density or total population within this zone because the situation may vary from case to case. Whether a specific number of people can, for example, be evacuated from a specific area, or instructed to take shelter, on a timely basis will depend on many factors such as location, number and size of highways, scope and extent of advance planning, and actual distribution of residents within the area.

Population center distance means the distance from the reactor to the nearest boundary of a densely populated center containing more than about 25,000 residents.

Power reactor means a nuclear reactor of a type described in §§ 50.21(b) or 50.22 of this chapter designed to produce electrical or heat energy.

A *Response spectrum* is a plot of the maximum responses (acceleration, velocity, or displacement) of idealized single-degree-of-freedom oscillators as a function of the natural frequencies of the oscillators for a given damping value. The response spectrum is calculated for a specified vibratory motion input at the oscillators' supports.

The *Safe Shutdown Earthquake Ground Motion* is the vibratory ground motion for which certain structures, systems, and components must be designed pursuant to Appendix S to part 50 of this chapter to remain functional.

Surface deformation is distortion of geologic strata at or near the ground surface by the processes of folding or faulting as a result of various earth forces. Tectonic surface deformation is associated with earthquake processes.

Testing reactor means a *testing facility* as defined in § 50.2 of this chapter.

14. Section 100.4 is added to read as follows:

§ 100.4 Communications.

Except where otherwise specified in this part, all correspondence, reports, applications, and other written communications submitted pursuant to 10 CFR part 100 should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, and copies sent to the appropriate Regional Office and Resident Inspector. Communications and reports may be delivered in person at the Commission's offices at 2120 L Street, NW., Washington, DC, or at 11555 Rockville Pike, Rockville, Maryland.

15. Section 100.8 is revised to read as follows:

§ 100.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150–0093.

(b) The approved information collection requirements contained in this part appear in § 100.23 and Appendix A.

16. A heading for Subpart A (consisting of §§ 100.10 and 100.11) is added directly before § 100.10 and §§ 100.10 and 100.11 are revised to read as follows:

Subpart A—Evaluation Factors for Stationary Power Reactor Site Applications Before [EFFECTIVE DATE OF THE FINAL RULE] and for Testing Reactors

Sec.

100.10 Factors to be considered when evaluating sites.
100.11 Determination of exclusion area, low population zone, and population center distance.

§ 100.10 Factors to be considered when evaluating sites.

Factors considered in the evaluation of sites include those relating both to the proposed reactor design and the characteristics peculiar to the site. It is expected that reactors will reflect through their design, construction and operation an extremely low probability for accidents that could result in release of significant quantities of radioactive fission products. In addition, the site location and the engineered features included as safeguards against the hazardous consequences of an accident, should one occur, should insure a low risk of public exposure. In particular, the Commission will take the following factors into consideration in determining the acceptability of a site for a power or testing reactor:

(a) Characteristics of reactor design and proposed operation including—

(1) Intended use of the reactor including the proposed maximum power level and the nature and inventory of contained radioactive materials;

(2) The extent to which generally accepted engineering standards are applied to the design of the reactor;

(3) The extent to which the reactor incorporates unique or unusual features having a significant bearing on the probability or consequences of accidental release of radioactive materials;

(4) The safety features that are to be engineered into the facility and those barriers that must be breached as a result of an accident before a release of radioactive material to the environment can occur.

(b) Population density and use characteristics of the site environs, including the exclusion area, low population zone, and the population center distance.

(c) Physical characteristics of the site, including seismology, meteorology, geology, and hydrology.

(1) Appendix A to Part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants" describes the nature of investigations required to obtain the geologic and seismic data necessary to determine site suitability and to provide reasonable assurance that a nuclear power plant can be constructed and operated at a proposed site without undue risk to the health and safety of the public. It describes procedures for determining the quantitative vibratory ground motion design basis at a site due to earthquakes and describes information needed to determine whether and to what extent a nuclear power plant need be designed to withstand the effects of surface faulting.

(2) Meteorological conditions at the site and in the surrounding area should be considered.

(3) Geological and hydrological characteristics of the proposed site may have a bearing on the consequences of an escape of radioactive material from the facility. Special precautions should be planned if a reactor is to be located at a site where a significant quantity of radioactive effluent might accidentally flow into nearby streams or rivers or might find ready access to underground water tables.

(d) Where unfavorable physical characteristics of the site exist, the proposed site may nevertheless be found to be acceptable if the design of the facility includes appropriate and

adequate compensating engineering safeguards.

§ 100.11 Determination of exclusion area, low population zone, and population center distance.

(a) As an aid in evaluating a proposed site, an applicant should assume a fission product release [1] from the core, the expected demonstrable leak rate from the containment and the meteorological conditions pertinent to his site to derive an exclusion area, a low population zone and population center distance. For the purpose of this analysis, which shall set forth the basis for the numerical values used, the applicant should determine the following:

(1) An exclusion area of such size that an individual located at any point on its boundary for two hours immediately following onset of the postulated fission product release would not receive a total radiation dose to the whole body in excess of 25 rem [2] or a total radiation dose in excess of 300 rem to the thyroid from iodine exposure.

(2) A low population zone of such size that an individual located at any point on its outer boundary who is exposed to the radioactive cloud resulting from the postulated fission product release (during the entire period of its passage) would not receive a total radiation dose to the whole body in excess of 25 rem or a total radiation dose in excess of 300 rem to the thyroid from iodine exposure.

(3) A population center distance of at least one and one"third times the distance from the reactor to the outer boundary of the low population zone. In applying this guide, the boundary of the population center shall be determined upon consideration of population distribution. Political boundaries are not controlling in the application of this guide. Where very large cities are involved, a greater distance may be necessary because of total integrated population dose consideration.

(b) For sites for multiple reactor facilities consideration should be given to the following:

(1) If the reactors are independent to the extent that an accident in one reactor would not initiate an accident in another, the size of the exclusion area, low population zone and population center distance shall be fulfilled with respect to each reactor individually. The envelopes of the plan overlay of the areas so calculated shall then be taken as their respective boundaries.

(2) If the reactors are interconnected to the extent that an accident in one reactor could affect the safety of operation of any other, the size of the exclusion area, low population zone and population center distance shall be based upon the assumption that all interconnected reactors emit their postulated fission product releases simultaneously. This requirement may be reduced in relation to the degree of coupling between reactors, the probability of concomitant accidents and the probability that an individual would not be exposed to the radiation effects from simultaneous releases. The applicant would be expected to justify to the satisfaction of the Commission the basis for such a reduction in the source term.

(3) The applicant is expected to show that the simultaneous operation of multiple reactors at a site will not result in total radioactive effluent releases beyond the allowable limits of applicable regulations.

Note: For further guidance in developing the exclusion area, the low population zone, and the population center distance, reference is made to Technical Information Document 14844, dated March 23, 1962, which contains a procedural method and a sample calculation that result in distances roughly reflecting current siting practices of the Commission. The calculations described in Technical Information Document 14844 may be used as a point of departure for consideration of particular site requirements which may result from evaluation of the characteristics of a particular reactor, its purpose and method of operation.

Copies of Technical Information Document 14844 may be obtained from the Commission's Public Document Room, 2120 L Street NW.(Lower Level), Washington, DC, or by writing the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

17. through 19. Subpart B (§§ 100.20–100.23) is added to read as follows:

Subpart B—Evaluation Factors for Stationary Power Reactor Site Applications on or After [EFFECTIVE DATE OF THE FINAL RULE]

Sec.

100.20 Factors to be considered when evaluating sites.
100.21 Non-seismic siting criteria.
100.23 Geologic and seismic siting factors.

§ 100.20 Factors to be considered when evaluating sites.

The Commission will take the following factors into consideration in determining the acceptability of a site for a stationary power reactor:

(a) Population density and use characteristics of the site environs, including the exclusion area, the population distribution, and site-related characteristics must be evaluated to determine whether individual as well as societal risk of potential plant accidents is low, and that site-related characteristics would not prevent the development of a plan to carry out suitable protective actions for members of the public in the event of emergency.

(b) The nature and proximity of man-related hazards (e.g., airports, dams, transportation routes, military and chemical facilities) must be evaluated to establish site parameters for use in determining whether a plant design can accommodate commonly occurring hazards, and whether the risk of other hazards is very low.

(c) Physical characteristics of the site, including seismology, meteorology, geology, and hydrology.

(1) § 100.23, "Geologic and seismic siting factors," of this part describes the criteria and nature of investigations required to obtain the geologic and seismic data necessary to determine the suitability of the proposed site and the plant design bases.

(2) Meteorological characteristics of the site that are necessary for safety analysis or that may have an impact upon plant design (such as maximum probable wind speed and precipitation) must be identified and characterized.

(3) Factors important to hydrological radionuclide transport such as soil, sediment, and rock characteristics, adsorption and retention coefficients, ground water velocity, and distances to the nearest surface body of water) must be obtained from on-site measurements. The maximum probable flood along with the potential for seismically induced floods discussed in § 100.23(d)(3) of this part must be estimated using historical data.

[1] The fission product release assumed for these calculations should be based upon a major accident, hypothesized for purposes of site analysis or postulated from considerations of possible accidential events, that would result in potential hazards not exceeded by those from any accident considered credible. Such accidents have generally been assumed to result in substantial meltdown of the core with subsequent release of appreciable quantities of fission products.

[2] The whole body dose of 25 rem referred to above corresponds numerically to the once in a lifetime accidental or emergency dose for radiation workers which, according to NCRP recommendations may be disregarded in the determination of their radiation exposure status (see NBS Handbook 69 dated June 5, 1959). However, neither its use nor that of the 300 rem value for thyroid exposure as set forth in these site criteria guides are intended to imply that these numbers constitute acceptable limits for emergency doses to the public under accident conditions. Rather, this 25 rem whole body value and the 300 rem thyroid value have been set forth in these guides as reference values, which can be used in the evaluation of reactor sites with respect to potential reactor accidents of exceedingly low probability of occurrence, and low risk of public exposure to radiation.

§ 100.21 Non-seismic siting criteria.

Applications for site approval for commercial power reactors shall demonstrate that the proposed site meets the following criteria:

(a) Every site must have an exclusion area and a low population zone, as defined in § 100.3;

(b) The population center distance, as defined in § 100.3, must be at least one and one-third times the distance from the reactor to the outer boundary of (the low population zone. In applying this guide, the boundary of the population center shall be determined upon consideration of population distribution. Political boundaries are not controlling in the application of this guide;

(c) Site atmospheric dispersion characteristics must be evaluated and dispersion parameters established such that:

(1) Radiological effluent release limits associated with normal operation from the type of facility proposed to be located at the site can be met for any individual located offsite; and

(2) Radiological dose consequences of postulated accidents shall meet the criteria set forth in § 50.34(a)(1) of this chapter for the type of facility proposed to be located at the site;

(d) The physical characteristics of the site, including meteorology, geology, seismology, and hydrology must be evaluated and site parameters established such that potential threats from such physical characteristics will pose no undue risk to the type of facility proposed to be located at the site;

(e) Potential hazards associated with nearby transportation routes, industrial and military facilities must be evaluated and site parameters established such that potential hazards from such routes and facilities will pose no undue risk to the type of facility proposed to be located at the site;

(f) Site characteristics must be such that adequate security plans and measures can be developed;

(g) Site characteristics must be such that adequate plans to take protective actions for members of the public in the event of emergency can be developed:

(h) Reactor sites should be located away from very densely populated centers. Areas of low population density are, generally, preferred. However, in determining the acceptability of a particular site located away from a very densely populated center but not in an area of low density, consideration will be given to safety, environmental, economic, or other factors, which may result in the site being found acceptable.[3]

§ 100.23 Geologic and seismic siting factors.

This section sets forth the principal geologic and seismic considerations that guide the Commission in its evaluation of the suitability of a proposed site and adequacy of the design bases established in consideration of the geologic and seismic characteristics of the proposed site, such that, there is a reasonable assurance that a nuclear power plant can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

Applications to engineering design are contained in appendix S to part 50 of this chapter.

(a) Applicability. The requirements in paragraphs (c) and (d) of this section apply to applicants for an early site permit or combined license pursuant to part 52 of this chapter, or a construction permit or operating license for a nuclear power plant pursuant to Part 50 of this chapter on or after [EFFECTIVE DATE OF THE FINAL RULE]. However, if the construction permit was issued prior to [EFFECTIVE DATE OF THE FINAL RULE], the operating license applicant shall comply with the seismic and geologic siting criteria in appendix A to part 100 of this chapter.

(b) Commencement of construction. The investigations required in paragraph (c) of this section are within the scope of investigations permitted by § 50.10(c)(1) of this chapter.

(c) Geological, seismological, and engineering characteristics. The geological, seismological, and engineering characteristics of a site and its environs must be investigated in sufficient scope and detail to permit an adequate evaluation of the proposed site, to provide sufficient information to support evaluations performed to arrive at estimates of the Safe Shutdown Earthquake Ground Motion, and to permit adequate engineering solutions to actual or potential geologic and seismic effects at the proposed site. The size of the region to be investigated and the type of data pertinent to the investigations must be determined based on the nature of the region surrounding the proposed site. Data on the vibratory ground motion, tectonic surface deformation, nontectonic deformation, earthquake recurrence rates, fault geometry and slip rates, site foundation material, and seismically induced floods and water waves must be obtained by reviewing pertinent literature and carrying out field investigations. However, each applicant shall investigate all geologic and seismic factors (for example, volcanic activity) that may affect the design and operation of the proposed nuclear power plant irrespective of whether such factors are explicitly included in this section.

(d) Geologic and seismic siting factors. The geologic and seismic siting factors considered for design must include a determination of the Safe Shutdown Earthquake Ground Motion for the site, the potential for surface tectonic and nontectonic deformations, the design bases for seismically induced floods and water waves, and other design conditions as stated in paragraph (d)(4) of this section.

(1) Determination of the Safe Shutdown Earthquake Ground Motion. The Safe Shutdown Earthquake Ground Motion for the site is characterized by both horizontal and vertical free-field ground motion response spectra at the free ground surface. The Safe Shutdown Earthquake Ground Motion for the site is determined considering the results of the investigations required by paragraph (c) of this section. Uncertainties are inherent in such estimates. These uncertainties must be addressed through an appropriate analysis, such as a probabilistic seismic hazard analysis or suitable sensitivity analyses. Paragraph IV(a)(1) of appendix S to part 50 of this chapter defines the minimum Safe Shutdown Earthquake Ground Motion for design.

(2) Determination of the potential for surface tectonic and nontectonic deformations. Sufficient geological, seismological, and geophysical data must be provided to clearly establish whether there is a potential for surface deformation.

(3) Determination of design bases for seismically induced floods and water waves. The size of seismically induced floods and water waves that could affect a site from either locally or distantly generated seismic activity must be determined.

(4) Determination of siting factors for other design conditions. Siting factors for other design conditions that must be evaluated include soil and rock stability, liquefaction potential, natural and artificial slope stability, cooling water supply, and remote safety-related structure siting. Each applicant shall evaluate all siting factors and potential causes of failure, such as, the physical

[3] Examples of these factors include, but are not limited to, such factors as the higher population density site having superior seismic characteristics, better access to skilled labor for construction, better rail and highway access, shorter transmission line requirements, or less environmental impact on undeveloped areas, wetlands or endangered species, etc. Some of these factors are included in, or impact, the other criteria included in this section.

properties of the materials underlying the site, ground disruption, and the effects of vibratory ground motion that may affect the design and operation of the proposed nuclear power plant.

Dated at Rockville, Maryland, this 11th day of October.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–25585 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–145–AD]

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300–600 series airplanes. This proposal would require that certain flight control computers be modified so that the autopilot will disengage whenever the airplane is in the "go-around" mode. This proposal is prompted by an accident in which the flight crew may have attempted a go-around while the airplane was in an out-of-trim condition. The actions specified by the proposed AD are intended to prevent severely reduced controllability of the airplane due to an out-of-trim condition between the trimmable horizontal stabilizer and the elevator.

DATES: Comments must be received by November 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information pertaining to this proposed rule may be obtained from or examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–145–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A310 and A300–600 series airplanes. The French DGAC advises that a Model A300–600 series airplane was recently involved in an accident during which the flight crew may have attempted a go-around while the airplane was in an out-of-trim condition. Investigation into the cause of this out-of-trim condition revealed that the flight crew may have attempted to override the autopilot while it was engaged in the COMMAND mode. If the airplane is in pitch axis, and the autopilot is overridden for prolonged periods by the flight crew via manual input from the control column, and if the autopilot is subsequently disengaged, the resultant out-of-trim condition between the trimmable horizontal stabilizer and the elevator could reduce controllability of the airplane.

Further investigation indicates that the design of Model A300–600 series airplanes does not provide for disengagement of the autopilot in a manner that would allow for manual input from the control column without adversely affecting controllability of the airplane. The design of Model A310 series airplanes is identical in this respect to Model A300–600 series airplanes.

The French DGAC issued French Airworthiness Directive 94–185–165(B), dated August 17, 1994, in order to assure the continued airworthiness of these airplanes in France. The French AD requires modification of FCC's having part numbers (P/N) B216ABM6, B350AAM1, B350AAM2, B350AAM3, and B470ABM1 (for Model A310 series airplanes); and P/N's B297AAM3, B297AAM4, B297AAM5, and B470AAM1 (for Model A300–600 series airplanes).

The French AD references Airbus Service Bulletins A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes), and A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), as the appropriate sources of service information to accomplish the modification of the FCC's. However, Airbus Service Bulletin A310–22–2036, dated December 14, 1993, describes procedures for modification of only one of the FCC's, P/N B470ABM1, which is installed on Model A310 series airplanes; while Airbus Service Bulletin A300–22–6021, Revision 1, dated December 24, 1993, describes procedures for modification of only one of the FCC's, P/N B470AAM1, which is installed on Model A300–600 series airplanes. Upon accomplishment of this software modification, the autopilot will disengage whenever the airplane is in the "go-around" mode above 400 feet radio altitude and whenever the pilot attempts to override the autopilot by exerting a certain amount of manual force on the control column.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the

Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the French DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of FCC's having P/N's B216ABM6, B350AAM1, B350AAM2, and B350AAM3 (for Model A310 series airplanes); and P/N's B297AAM3, B297AAM4, and B297AAM5 (for Model A300–600 series airplanes). Since the manufacturer has not yet developed a modification for these FCC's, these modifications are to be accomplished in accordance with a method approved by the FAA.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Modification of FCC's having P/N's B470ABM1 (for Model A310 series airplanes) and B470AAM1 (for Model A300–600 series airplanes) has been addressed in a separate rulemaking action (reference Airworthiness Directive Rules Docket Number 94–NM–134–AD). Since the manufacturer has advised that an ample number of required parts will be available for modification of FCC's having these two part numbers, and in light of the degree of urgency associated with the subject unsafe condition, the FAA finds that modification of those FCC's must be accomplished sooner than the modification of the FCC's addressed in this proposal. That AD action also requires a revision to the FAA-approved Airplane Flight Manual (AFM) that warns the flight crew to avoid overriding the autopilot while the airplane is in the COMMAND mode and cautions the flight crew to check the status of the autopilot in the event the flight controls respond abnormally.

The FAA estimates that 15 Model A310 series airplanes and 36 Model A300–600 series airplanes of U.S. registry would be affected by this proposed AD.

Since the manufacturer has not yet developed one specific modification commensurate with the requirements of this proposal, the FAA is unable at this time to provide a specific information as to the number of work hours or cost of parts that would be required to accomplish the proposed modification. A further problem in developing a specific cost estimate is the fact that modification costs are expected to vary from operator to operator and from airplane to airplane depending upon airplane configuration. The proposed compliance time of 24 months should provide ample time for the development, approval, and installation of an appropriate modification.

However, based on similar modifications accomplished previously on other FCC's installed on other airplane models, the FAA can reasonably estimate that the proposed modification may require as few as 2 work hours or as many as 50 work hours to accomplish, at an average labor rate of $55 per work hour. The cost of required parts could range from a negligible amount to as much as $1,500 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be between $5,610 ($110 per airplane) and $216,750 ($4,250 per airplane).

As indicated earlier in this preamble, the FAA specifically invites the submission of comments and other data regarding this economic aspect of proposal.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 94–NM–145–AD.

Applicability: Model A310 series airplanes equipped with Flight Control Computers (FCC) having part number (P/N) B216ABM6, B350AAM1, B350AAM2, or B350AAM3; and Model A300–600 series airplanes equipped with FCC's having P/N B297AAM3, B297AAM4, or B297AAM5; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 24 months after the effective date of this AD, modify the FCC's in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) As of 24 months after the effective date of this AD, no person shall install an FCC having P/N B216ABM6, B350AAM1, B350AAM2 or B350AAM3 on any Model A310 series airplane; and P/N B297AAM3, B297AAM4, or B297AAM5 on any Model A300–600 series airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on October 7, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25582 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94N–0155]

RIN 0905–AB68

Food Labeling; Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Guidelines for Voluntary Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Identification of the 20 Most Frequently Consumed Raw Fruit, Vegetables, and Fish; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening to November 16, 1994, the comment period for a proposed rule that appeared in the **Federal Register** of July 18, 1994 (59 FR 36379). The document proposed to revise the guidelines for voluntary nutrition labeling of raw fruit, vegetables, and fish; revise the definition for compliance with respect to adherence by retailers to those guidelines; and revise the labeling regulations and labeling values for the 20 most frequently consumed raw fruit, vegetables, and fish. This action is in response to the Nutrition Labeling and Education Act of 1990. In addition, the document solicited comments on all aspects of the FDA data base review process. FDA is taking this action in response to several requests for an extension of the comment period.

DATES: Written comments by November 16, 1994.

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

FOR FURTHER INFORMATION CONTACT: Jean A.T. Pennington, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5434.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 18, 1994 (59 FR 36379), FDA issued a proposed rule to adopt regulations to revise the guidelines for voluntary labeling of raw fruit, vegetables, and fish. The agency also published a correction document on July 21, 1994 (59 FR 37190), to correct an inadvertent error in the proposal. Interested persons were given until September 16, 1994, to comment on the proposal.

FDA has received several requests from trade associations for an extension of the comment period in order to better review the proposal and prepare comments. Most requests ask for a 30-day extension.

After careful review of these requests, FDA has concluded that it is in the public interest to allow additional time for comments. With the additional period, the agency is providing more than 90 days for comments. FDA considers that this amount of time should be more than ample for interested persons to complete and submit their comments. Accordingly, the agency is reopening the comment period to November 16, 1994.

Interested persons may, on or before November 16, 1994, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 6, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–25634 Filed 10–14–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Withdrawal of Proposed Amendment to the Bank Secrecy Act Regulations for Mandatory Aggregation of Currency Transactions for Certain Financial Institutions and Mandatory Magnetic Media Reporting of Currency Transaction Reports

AGENCY: Departmental Offices, Treasury.

ACTION: Withdrawal of Regulatory Proposal.

SUMMARY: On September 6, 1990, Treasury published a Notice of Proposed Rulemaking (NPRM) proposing requirements for banks with deposits over $100 million, and certain nonbank financial institutions, regardless of asset size, to maintain specific systems to aggregate currency transactions and proposing requirements for financial institutions that file more than 1,000 Currency Transaction Reports per year to file by magnetic media. After analysis of the comments received in response to this NPRM and further study and review, Treasury has decided to withdraw it.

DATES: The proposal is withdrawn on October 17, 1994.

ADDRESSES: Peter G. Djinis, Director, Office of Financial Enforcement, Financial Crimes Enforcement Network (FinCEN), Department of the Treasury, Room 3210–Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: A. Carlos Correa, Chief, Rules and Regulations, Office of Financial Enforcement, (202) 622–0400.

SUPPLEMENTARY INFORMATION: On September 6, 1990 (55 FR 36663), Treasury published a Notice of Proposed Rulemaking (NPRM) with two separate proposals. The first would have required: (1) banks with deposits in excess of $100 million to maintain systems to aggregate currency transactions that are conducted by or on behalf of accountholders at the bank and that affect an account during a business day; and (2) currency dealers and exchangers, check cashers, and transmitters of funds to maintain systems and procedures to aggregate currency transactions that are conducted by or on behalf of customers at the financial institution during a business day. The second proposal would have required financial institutions that file more than 1,000 Currency Transaction Reports (CTRs) a year, to file by magnetic media. Treasury sought comments on each proposal.

Following publication of the NPRM, numerous financial institutions implemented aggregation and magnetic media filing systems. Some implemented these systems in anticipation of a Final Rule. Others adopted aggregation systems because those systems save costs and enhance financial institutions' ability to monitor currency activity for BSA compliance, as well as for other management and marketing purposes.

In 1990, multiple transaction CTRs accounted for only 51% of the total number of CTRs filed, while in 1993, multiple transaction CTRs comprised 70% of all CTRs received by Treasury.

Treasury believes the increased reporting of multiple transactions reflects an increased awareness in the financial services industry of the importance of BSA compliance and the availability of automated systems to assist in this endeavor. Because these systems also meet other important needs of financial institutions, it is not expected that financial institutions will discontinue using their aggregation systems upon withdrawal of the NPRM.

The number of banks filing CTRs magnetically has increased dramatically. (In 1989, only 50 banks magnetically filed CTRs. By mid-1994, the number of banks filing magnetically has increased to 532.) Because magnetic filing reduces financial institutions' CTR processing and storage costs, it is unlikely that banks will return to paper processing when the proposed NPRM is withdrawn.

Treasury is currently considering ways to reduce the regulatory burden of complying with the BSA while enhancing the utility of information it receives from financial institutions. After careful consideration of comments describing the potential costs that would be incurred by financial institutions not yet using automated systems to aggregate currency transactions, as well as Treasury's intention to implement additional regulatory changes, Treasury has decided to withdraw the NPRM.

In reaching this decision, Treasury analyzed comments received in response to the NPRM and consulted with the Bank Secrecy Act Advisory Group. The Group, a committee which comprises 30 representatives from the financial services industry, trades and businesses and state and federal government, expressed the view that financial institution resources would be better devoted to programs specifically geared toward the detection and reporting of suspicious transactions, and the implementation of mandatory "know your customer" programs. Treasury agrees with this reasoning and is considering regulatory changes including reporting of suspicious transactions, mandatory "know your customer" programs, and federal licensing and state registration of nonbank financial institutions.

Dated: September 20, 1994.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 94–25491 Filed 10–14–94; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL COMMUNICATIONS COMMISSION

46 CFR Chapter I

[PR Docket No. 94–107; DA 94–1085]

Commercial Mobile Radio Services; Louisiana State Petition to Retain Existing Jurisdiction Over Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The amendments to the Communications Act in the Omnibus Budget Reconciliation Act of 1993 preempted state rate and entry regulation of commercial mobile radio services. States were given the opportunity to file petitions for the authority to continue regulating these intrastate rates. This Order extends the deadlines for reply comments in this proceeding in response to a request filed by the Louisiana Public Service Commission. This extension will provide interested parties enough time to complete their review and submit meaningful replies on the issues we raised in this proceeding.

DATES: Reply comments must be filed on or before October 14, 1994.

ADDRESSES: FCC, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Regina Harrison, Private Radio Bureau, Land Mobile and Microwave Division, (202) 632–7125.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 4, 1994.
Released: October 4, 1994.

By the Chief, Private Radio Bureau:

1. The Louisiana Public Service Commission (Louisiana) has filed an "emergency" motion for a 10-day extension of time from the October 4, 1994 deadline for filing reply comments, and a motion for expedited consideration of that motion.[1] For the reasons given below, we grant the motion.

2. The amendments to the Communications Act in the Omnibus Budget Reconciliation Act of 1993 preempted state rate and entry regulation of commercial mobile radio services. A state could, however, obtain intrastate rate regulatory authority by filing a properly supported petition with the FCC.[2] States with existing rate regulation could petition by August 10, 1994 to continue regulating, and would obtain a stay of statutory preemption until the FCC acted. The Commission has one year in which to rule on the petition and to decide any reconsideration. Louisiana filed such a petition on August 9, 1994. Pursuant to the Commission's rules,[3] interested parties had 30 days in which to comment and then 15 days for replies.

3. Louisiana states that an extension "is necessary in order to provide the Commission with a complete and accurate record on which to decide the numerous complex issues in this matter." The State claims that this extension "will not cause any undue hardship to any party nor will it retard the progress of this proceeding."[4] It adds that this proceeding will affect state interests in the manner in which mobile carriers are regulated, the development of the industry, and the rates paid by and services rendered to Louisiana ratepayers. It states that it has a constitutional charge to protect ratepayers' interests.[5] In requesting expedited consideration, Louisiana states that it has orally notified counsel of record of the filing of its motions.[6]

4. We believe that the motion has merit. The record in this proceeding is large, and the issues, including the state of competition in the cellular market in the state and the reasonableness of rates, intricate. We find that good cause has been shown for the requested extension.

5. Pursuant to § 1.46 of the Commission's Rules,[7] we GRANT the Motion for Expedited Consideration of Emergency Motion on Behalf of the Louisiana Public Service Commission for 10-Day Extension of Time to Reply to Comments Filed by Various Mobile Carriers and the Emergency Motion on Behalf of the Louisiana Public Service Commission for 10-Day Extension of Time to Reply to Comments Filed by Various Mobile Carriers, And Hereby

[1] Morion for Expedited Consideration of Emergency Motion on Behalf of the Louisiana Public Service Commission for 10-Day Extension of Time to Reply to Comments Filed by Various Mobile Carriers (dated Oct. 3, 1994) (Motion to Expedite); Emergency Motion on Behalf of the Louisiana Public Service Commission for 10-Day Extension of Time to Reply to Comments Filed by Various Mobile Carriers (dated Oct. 3, 1994) (Emergency Motion).

[2] Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, Title VI, § 6002(b)(2), 107 Stat. 312, 392 (1993), amending Section 332(c)(3) of the Communications Act, 47 U.S.C. 332(c)(3).

[3] Second Report and Order, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1522–23 (1994), 59 FR 18493 (Apr. 19, 1994) (to be codified at 47 CFR 20.13).

[4] Emergency Motion at 1.

[5] Emergency Motion at 3.

[6] Motion to Expedite at 2. See also 47 CFR 1.46.

[7] 47 CFR 1.46.

Extend the period for filing replies UNTIL October 14, 1994.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 94–25542 Filed 10–14–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 45 and 52

Federal Acquisition Regulation; Government Property

AGENCY: Department of Defense.

ACTION: Notice of public hearing.

SUMMARY: The time announced (59 FR 47583, September 16, 1994) for a public hearing to exchange ideas and information in preparation for the rewrite of Part 45 of the Federal Acquisition Regulation has been changed. The hearing date of November 3, 1994, remains unchanged; however, the time of the hearing has been changed to 1:30 p.m.

DATES: The public hearing will be held at 1:30 p.m. on November 3, 1994.

ADDRESSES: The public hearing will be held in Room 208, Crystal Gateway 4, 1213 Jefferson Davis Highway, Arlington, Virginia. Individuals wishing to attend the meeting, including individuals wishing to make presentations, should contact Nancy Ladd prior to October 25, 1994. Written comments and statements for presentation should be submitted to Nancy Ladd, DAR Council Director, ATTN: IMD 3D139, PDUSD (A&T) DP/DAR, 3062 Defense Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Nancy L. Ladd, DAR Council Director, (703) 604–5929.

Nancy L. Ladd,

Director, Defense Acquisition Regulations Council.

[FR Doc. 94–25617 Filed 10–14–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 285 and 678

[I.D. 091494B]

Atlantic Shark and Tuna Fisheries

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

ACTION: Public hearings and scoping meetings; request for comments.

SUMMARY: NMFS has held 14 combination public hearing and scoping meetings to receive comments from fishery participants and other members of the public on bluefin tuna, yellowfin and other tuna, and Atlantic shark management issues. The purpose of this document is to notify the public of additional hearings to continue public participation in the management process.

DATES: Hearings and meetings are scheduled as follows:

1. October 25, 1994, 5 p.m. to 10 p.m., Ocean City, MD
2. October 27, 1994, 5 p.m. to 10 p.m., Barnegat Light, NJ
3. November 2, 1994, 5 p.m. to 10 p.m., Portsmouth, NH (see **SUPPLEMENTAL INFORMATION** for the times of the fishery topics). Written comments on the issues must be submitted on or before November 22, 1994.

ADDRESSES: The hearing and meetings will be held in the following locations:

1. Ocean City-City Hall (Council Chambers), 3rd and Baltimore Streets, Ocean City, MD 21842
2. Barnegat Light-Barnegat Light Firehouse, 10th and Boulevard Streets, Barnegat Light, NJ 08006
3. Portsmouth-Urban Forestry Center, 43 Elwyn Road, Portsmouth, NH 03801–5701

Written comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Tuna Comments" and/or "Shark Comments".

FOR FURTHER INFORMATION CONTACT: John D. Kelly for Atlantic tunas or general information, telephone: 301–713–2347, fax: 301–713–0596; C. Michael Bailey for sharks, telephone: 301–713–2347, fax: 301–713–0596.

SUPPLEMENTARY INFORMATION: The Atlantic, Caribbean, and Gulf of Mexico shark fisheries are managed under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the fishery management plan (FMP) at 50 CFR part 678. The Atlantic tuna fisheries are managed under regulations at 50 CFR part 285 implementing the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*), regulating the harvest of Atlantic tunas by persons and vessels subject to U.S. jurisdiction.

Issues for each combination meeting are:

1. Public hearing on the Draft Environmental Impact Statement (DEIS) for Atlantic bluefin tuna.
2. Scoping meeting on the Atlantic bluefin tuna fishery quota adjustments, allocation by user group, delayed season, moratorium on entry, and other issues.
3. Scoping meeting on the other Atlantic tunas, including permitting and reporting requirements for dealers and fishermen, changes in minimum size, catch levels, and special management zones.
4. Scoping meeting on the Atlantic shark fishery quota adjustment.

For background information on these issues, see the document published in the **Federal Register** on September 23, 1994, 59 FR 48847.

These hearings/meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Richard H. Schaefer by October 19, 1994, (see **ADDRESSES**). To accommodate people unable to attend a scoping meeting or wishing to provide additional comments, NMFS is also soliciting written comments on these and other issues of concern in these fisheries, including comments on the DEIS.

Each of these hearing/meetings will include a shark discussion from 5 to 6 p.m., a non-bluefin tuna discussion from 6 to 7 p.m., and a bluefin discussion from 7 to 10 p.m. These scheduled times may be adjusted among the three fishery topics depending upon expressed interests of the audience. Such adjustments are at the discretion of the Meeting Officer.

Dated: October 11, 1994.

Joe P. Clem,

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

[FR Doc. 94–25583 Filed 10–12–94; 11:49 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 941089–4289; I.D. 092694A]

RIN 0648–AF02

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement Amendment 21a to the

Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands management area (BSAI), and would prohibit the use of trawl gear in specified areas surrounding the Pribilof Islands. This action is necessary to protect areas of biological importance to certain crab stocks and to reduce interference with seabird and marine mammal populations. It is intended to promote the objectives of the FMP.

DATES: Comments must be submitted by November 28, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 21a and the environmental assessment/regulatory impact review (EA/RIR) prepared for the amendment are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone (EEZ) of the BSAI is managed by NMFS according to the FMP for the Groundfish Fishery of the BSAI. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that pertain to U.S. fisheries are codified at 50 CFR part 620.

This action proposes regulations to implement Amendment 21a to the FMP. If approved, this amendment would prohibit the use of trawl gear in specified areas of the EEZ surrounding the Pribilof Islands. A description of, and reasons for, the proposed measures are presented below.

Fishing for groundfish using trawl gear is authorized in the waters off St. Paul, St. George, Walrus, and Otter Islands (Pribilof Islands area) under regulations at 50 CFR part 675. In addition to providing habitat for commercially important groundfish, the Pribilof Islands area provides the necessary habitat for blue king crab, juvenile groundfish, Korean hair crab, marine mammals, seabirds, and their prey species. The rocky benthic habitat immediately surrounding the Pribilof Islands area provides essential food resources and protection for juvenile crab and fish species, which are prey species for marine mammals and seabirds.

NMFS trawl surveys indicate that during 1975, the historic estimated abundance of blue king crab in the Pribilof Islands area decreased significantly. During 1980–1992, the abundance decreased from 106 million animals to 10 million animals, according to the estimates obtained from NMFS trawl surveys. Unlike other crab species, blue king crab populations do not extend uniformly across the Bering Sea shelf, but are found in isolated populations located in waters surrounding the Pribilof, St. Matthew, and St. Lawrence Islands. As a result of the decrease in crab abundance, commercial crab fisheries in the Pribilof Islands area have not been authorized since 1987. Continued trawling under the current FMP for groundfish in the Pribilof Islands area could jeopardize the recovery of depressed blue king crab stocks and the productivity of marine resources living in this habitat.

The Pribilof Islands area contributes an essential food resource of prey species that allows for optimal foraging and breeding opportunities for marine resources dependent on the habitat in this area. Fish, crab, seabird, and marine mammal populations are dependent on the habitat that the Pribilof Islands area provides. Although sea lions and red-legged kittiwakes are listed as a threatened species and as a candidate for threatened species, respectively, this action would further protect these species. The northern fur seal is listed as depleted under the Marine Mammal Protection Act. During the breeding season, approximately two-thirds of the northern fur seal population, and an estimated 88 and 92 percent of red-legged kittiwakes and Alaskan thick-billed murre, respectively, breed in the Pribilof Islands area. The Pribilof Islands area also provides the rocky habitat necessary to protect fish and crab populations during their juvenile stages.

In 1989, the Central Bering Sea Fishermen's Association initiated a proposal to establish areas closed to trawling in the Pribilof Islands area. The intent of this proposal was to protect this unique habitat and ecosystem so that it could contribute long-term benefits to the fisheries surrounding the waters of the Pribilof Islands area.

At its meeting in September 1991, the Council requested that an analysis be prepared to identify those areas needing protection. The State of Alaska Department of Fish and Game prepared a draft EA/RIR for that proposal. The Pribilof Islands habitat conservation area was determined by the Council at its April 1992 meeting, based on an analysis of the distribution of crab and groundfish species.

The analysis was released for public review on October 29, 1992, and again in September 1993. During both review processes, the Council recommended that additional alternatives be studied to define the areas that would protect a majority of the species and habitat, while providing access to groundfish resources. The analysis identified areas of high blue king crab bycatch and low groundfish harvests.

The analysis indicated that the proposed Pribilof Islands habitat conservation area would not significantly impact groundfish fishermen because it would affect only 14 vessels in the entire BSAI groundfish fleet and the operators of these vessels would have the opportunity to fish in the remainder of the BSAI.

At its meeting in December 1993, the Council again reviewed the draft EA/RIR and sent the document out for public review. At its meeting in April 1994, the Council considered the testimony and recommendations of its Advisory Panel, Scientific and Statistical Committee, fishing industry representatives, and the general public on alternative habitat protection zones and how these areas would be defined, established, and managed. The Council reviewed information about the distribution and habitat of blue king crab in the NMFS annual trawl surveys, and on observer data. The proposed trawl closure encompasses a major portion of the historic blue king crab distribution during years of low abundance and during years when the population was expanding.

Amendment 21a would prohibit trawling within the EEZ in an area bounded by a straight line connecting the following pairs of coordinates in the following order:

Latitude	*Longitude*
57°57.0′ N.	168°30.0′ W.
56°55.2′ N.	168°30.0′ W.
56°48.0′ N.	169°2.4′ W.
56°34.2′ N.	169°2.4′ W.
56°30.0′ N.	169°25.2′ W.
56°30.0′ N.	169°44.1′ W.
56°55.8′ N.	170°21.6′ W.
57°13.8′ N.	171°0.0′ W.
57°57.0′ N.	171°0.0′ W.
57°57.0′ N.	168°30.0′ W.

The Council determined that this area protects most of the crab habitat in the Pribilof Islands area, without significant adverse impacts on trawl operations for groundfish. This action balances the protection of the marine resources dependent on this habitat with the

needs of the groundfish fishery. The Council voted to recommend that Amendment 21a, which prohibit trawling in this area, be submitted to NMFS for approval.

Section 304(a)(1)(D) of the Magnuson Act requires the publication of regulations proposed by a Council within 15 days of receipt of the FMP amendments and regulations. At this time, NMFS has not determined that the FMP amendment these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making a final determination about the FMP amendment and in implementing a final rule, will take into account the data, views, and comments received during the comment period.

Classification

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed action would not have a significant economic impact on the fishing industry because less than 3 percent of the Bering Sea groundfish is harvested in the Pribilof Islands area by 14 vessels in the groundfish fleet. The volume of groundfish historically caught in this area can be harvested elsewhere in the Bering Sea. As a result, a regulatory flexibility analysis was not prepared.

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

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: October 11, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 675 is proposed to be amended as follows:

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

1. The authority citation for part 675 continues to read as follows:

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

2. In § 675.22, paragraph (i) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(i) *Time and area closure.* Trawling is prohibited at all times within the EEZ in the area bounded by a straight line connecting the following pairs of coordinates in the following order:

Latitude	Longitude
57°57.0′ N.	168°30.0′ W.
56°55.2′ N.	168°30.0′ W.
56°48.0′ N.	169°2.4′ W.
56°34.2′ N.	169°2.4′ W.
56°30.0′ N.	169°25.2′ W.
56°30.0′ N.	169°44.1′ W.
56°55.8′ N.	170°21.6′ W.
57°13.8′ N.	171°0.0′ W.
57°57.0′ N.	171°0.0′ W.

[FR Doc. 94–25616 Filed 10–12–94; 3:34 pm]

BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 59, No. 199
Monday, October 17, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Sugar and Crystalline Fructose Marketing Allotments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice affirms the announcement made on September 29, 1994 by the Commodity Credit Corporation (CCC) that marketing allotments have been established for sugar and crystalline fructose for fiscal year 1995. The overall allotment quantity for sugar is 7,889 thousand short tons (TST). The beet sugar allotment is 4,355.5 TST (55.2 percent), and the cane sugar allotment is 3,533.5 TST (44.8 percent). State cane sugar allotments and individual sugar beet and sugarcane processor allocations are provided in this notice. The marketing allotment for crystalline fructose is 159,757 short tons.

DATES: The allotments apply to marketings from October 1, 1994 through September 30, 1995, unless subsequently suspended.

FOR FURTHER INFORMATION CONTACT: Robert D. Barry, Director, Sweeteners Analysis Division, Agricultural Stabilization and Conservation Service, room 3739, South Agriculture Building, U.S. Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415; or FAX to 202–720–8261; or telephone 202–720–3391.

SUPPLEMENTARY INFORMATION:

Background

Throughout its history the United States has been a net importer of sugar. In order to support the domestic production of sugar beets and sugarcane, Congress has mandated, continuously since 1981, that the CCC provide price support for domestically produced sugar beets and sugarcane. CCC has provided such price support by making nonrecourse loans available, at minimum levels prescribed by Congress, to sugar beet and sugarcane processors in accordance with the provisions of the Agricultural Act of 1949, as amended (the "1949 Act") (*See* 7 U.S.C. § 1446g). In order to receive a price-support loan, an eligible processor must agree to pay not less than the minimum price-support levels specified by the CCC to all producers who deliver sugar beets or sugarcane to such processor for processing. During fiscal year 1994, three sugar beet processors declined to participate in the price-support loan program, in part to avoid the minimum grower payment requirements, and two other sugar beet processors defaulted on price-support loans, resulting in 13,950 short tons of sugar pledged as loan collateral being forfeited to the CCC.

The national average loan rates for the 1994 crop year (i.e., July 1, 1994 through June 30, 1995) have not yet been published but are expected to be the minimum rates allowed by statute. The loan rate for raw cane sugar is expected to remain at 18 cents per pound, and the loan rate for refined beet sugar is expected to increase, under the statutory formula, by up to 40 points from the 23.62 cents per pound loan rate for the 1993 crop year. The increase of the beet sugar loan rate means that market prices will have to increase correspondingly in order to avoid risks of price-support loan defaults and the forfeiture of sugar collateral in fiscal year 1995. Since the minimum grower payments are a function of the loan rate, an increase in the loan rate also increases pro rata the minimum grower payment levels. Without an increase of refined sugar prices, more sugar beet processors may elect not to participate in the price-support program, thereby undermining the purpose of the program to support the prices received by sugar beet growers.

Section 902(a) of the Food Security Act of 1985 (the "1985 Act") requires that the President "use all authorities available to the President as is necessary to enable the Secretary of Agriculture to operate the sugar program established under section 206 of the Agricultural Act of 1949 at no cost to the Federal government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation." Since the price-support levels mandated by Congress generally are substantially above world market prices, import restrictions have been primarily relied upon to maintain the domestic price-support program at no cost to the Federal government. Currently, additional U.S. note 3(a) to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorizes the Secretary of Agriculture to determine the total amount of sugars, syrups, and molasses that may be entered at the low tier of tariffs under an import tariff-rate quota which effectively limits sugar imports.

Prior to enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 (the "1990 Farm Act"), the only mechanism available to the Secretary to regulate the domestic price of sugar was the tariff-rate quota. But the continued use of a restrictive quota had a devastating effect on U.S. cane sugar refiners and the economies of exporting countries. To alleviate these negative effects, the 1990 Farm Act provided the Secretary of Agriculture with authority to establish domestic marketing allotments in order to maintain the price of domestic sugar without reducing imports below the minimum level—1.25 million short tons, raw value—deemed needed to allow refineries to continue efficient operations. On August 6, 1994, the Secretary of Agriculture modified the existing tariff-rate quota period for imports, from the period October 1, 1992 through September 30, 1994 to the period October 1, 1992 through July 31, 1994, and announced a new quota period from August 1, 1994 through September 30, 1995 and a total quota amount of 1,322,978 metric tons, raw value (1,458,333 short tons). Effectively, this action means a monthly average of quota imports that will total 1.25 million short tons in FY 1995.

Establishment of Marketing Allotments

The Agricultural Adjustment Act of 1938, as amended (the "1938 Act"), requires that, before the beginning of a fiscal year, the Secretary shall determine if marketing allotments for the fiscal year for sugar processed from domestically produced sugar beets or sugarcane must be established based on estimates of consumption, reasonable ending stocks, beginning stocks, and production. Specifically, section 359b(a)(1) of the 1938 Act requires that

the Secretary make estimates of the following:

(1) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

(2) the quantity of sugar that will be available from carry-in stocks or from domestically produced sugarcane and sugar beets for consumption in the United States during the year; and

(3) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar-containing products), based on the difference between the sum of the quantity of estimated consumption and reasonable carryover stocks and the quantity of sugar estimated to be available from domestically produced sugarcane and sugar beets and from carry-in stocks.

Section 359b(b)(1) of the 1938 Act provides for the establishment of marketing allotments for domestically processed sugar for a fiscal year, if imports of sugar, based upon these estimates, will be less than 1,250,000 short tons, raw value.

The estimate of the quantity of sugar that "would provide for reasonable carryover stocks" differs from the estimates of production, consumption, and beginning stocks and from the estimate of actual ending stocks, which are conventional predictions of supply and use parameters, in that it is not a straightforward estimate of the quantity of sugar that actually will be carried over at the end of the fiscal year. By contrast, the estimate of "reasonable" ending stocks is a policy determination of the quantity of unrestrained stocks that is expected to result in market prices at least high enough to achieve the goals of the no-cost price-support program for sugar beets and sugarcane. Accordingly, the level of ending stocks which would be "reasonable" must reflect that quantity that is necessary to achieve the price-support objectives of section 206 of the 1949 Act as well as the "no cost" mandate of section 902(a) of the 1985 Act, without reducing import access below 1.25 million short tons.

Similarly, the estimate of imports is not an estimate of the quantity of sugar expected to actually be entered into the U.S. customs territory during the fiscal year but rather the level of imports that would be required to achieve the determined quantity of reasonable ending stocks, based upon the statutory formula. Accordingly, the import estimate indicates whether, in the absence of domestic marketing allotments, the Secretary would be required to reduce the tariff-rate quota amount to a quantity less than 1.25 million short tons in order to achieve the desired level of reasonable ending stocks for maintaining the price-support program at no cost.

Estimates of Sugar Consumption, Stocks, Production, and Imports for Fiscal Year 1995

Pursuant to section 359b(a)(1) of the 1938 Act, the Secretary has estimated the quantities of sugar consumption, stocks, production, and imports in the United States (including Puerto Rico) for fiscal year 1995 as follows:

	TST, raw value
Consumption	9,247
Reasonable ending (carryover) stocks	1,278
Production	7,890
Beginning (carry-in) stocks	1,386
Imports	1,249

The current situation and outlook for sugar in fiscal year 1995 indicates that the probability of forfeiture of sugar pledged as collateral for price-support loans would be high without allotments, because estimated actual ending stocks are high and refined beet sugar prices, which softened in mid-September, were likely to fall further without allotments. Marketing allotments are expected to raise market prices to levels which will provide effective price support and avoid costs to the Federal Government. Any level of ending stocks at or above 1,279 TST determined to be "reasonable" would not trigger marketing allotments and would very likely leave market prices depressed at levels that would result in not achieving the price-support objectives and cause forfeitures of sugar held as collateral under the price-support loan program. A determination of reasonable ending stocks of less than 1,279 TST would trigger marketing allotments, which would have the effect of raising sugar prices by reducing marketings of sugar in fiscal year 1995. Therefore, a level of unrestrained ending stocks of 1,278 TST would be reasonable in light of the objectives of the sugar program of assuring an adequate supply of sugar to the U.S. market while supporting domestic sugar beet and sugarcane growers and also avoiding costs to the Federal Government. Accordingly, the quantity of sugar needed to be imported into the United States during the fiscal year in order to achieve such level of ending stocks would be less than 1.25 million short tons, raw value, in the absence of domestic marketing allotments.

Establishment of Marketing Allotments for Crystalline Fructose

Section 359b(c) of the 1938 Act provides that for any fiscal year in which sugar marketing allotments are established, the Secretary shall establish allotments for the marketing by manufacturers of crystalline fructose manufactured from corn, at a total level not to exceed the equivalent of 200,000 tons of sugar, raw value, during the fiscal year.

Overall Allotment Quantity

Section 359c(b) of the 1938 Act provides that the Secretary shall establish the overall allotment quantity of sugar by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks for the fiscal year (1) 1,250,000 short tons, raw value and (2) carry-in stocks of sugar. This formula yields an overall allotment quantity for sugar of 7,889 TST, calculated as follows:

9,247 (consumption) + 1,278 (reasonable carry-over stocks) − 1,386 (carry-in stocks) − 1,250 = 7,889.

Beet Sugar and Cane Sugar Allotments

Pursuant to sections 359c (c) and (d) of the 1938 Act, the Secretary must establish overall beet sugar and cane sugar allotments by using percentage factors established in a fair and equitable manner on the basis of past marketings of sugar, processing and refining capacity, and the ability of processors to market the sugar covered under the allotments. Section 359c(f) of the 1938 Act provides that the cane sugar allotment shall be further allotted among the 5 States in the United States in which sugarcane is produced (i.e., Florida, Hawaii, Louisiana, Puerto Rico, and Texas) in a fair and equitable manner on the basis of past marketings of sugar, processing capacity, and the ability of processors to market the sugar covered under the allotments. Section 359d(a) of the 1938 Act provides for the allocation among processors of the State cane sugar allotments and the beet sugar allotment after such hearing and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar, and the ability

of each processor to market sugar covered by that portion of the allotment allocated to it. For purposes of these divisions of the overall allotment quantity, past marketings are based on the 1985–1989 crops, processing or refining capacity is defined as the highest crop year production of the previous 5 years, and ability to market is defined as the current crop year production estimate.

The 1938 Act is silent on the specific weights that should be assigned to each factor but directs that the allotments and allocations should result in fairness, efficiency, and equity. CCC regulations governing the marketing allotments provide for the three factors to be weighted equally or as determined appropriate by CCC for the fiscal year. Equal weights were assigned to each of the factors when allotments were instituted in FY 1993. However, experience gained during the administration of the FY 1993 allotment program made it clear that the use of equal factor weights could result in a disproportionate share of the negative impacts of allotments being placed on a relatively few processors, while other processors who were also expanding production would incur little or no negative impact. Due to this disparate impact, the allotments in FY 1993 also resulted in an increase in refined sugar prices to levels in excess of those needed to achieve the price support and no-cost objectives of the sugar program. This experience indicated that CCC should adjust the weighting of the three factors in light of the data available in order to achieve the statutory goals of fairness, efficiency, and equity in allocating market shares and to avoid driving prices for consumers and industrial users to excessive levels. The Council of Economic Advisers (CEA) and the Office of Management and Budget (OMB) have also suggested that the factors be weighted differently (e.g., weights of 10 percent for past marketings, 30 percent for processing capacity, and 60 percent for ability to market), based on the premise that sugar delivered to the market by the most efficient processors will result in the lowest prices for users and consumers.

The use of equal factor weights for FY 1995 would again restrain marketings by rather few processors and would be inappropriate to ensure a fair, efficient, and equitable sharing of both the burden and benefits of marketing allotments. Equal factor weighting would also be likely to have a much greater price impact than necessary to achieve price-support objectives. CCC has determined that it would be most appropriate, given the relevant statutory purposes and the expected market impact, to provide greater weight on ability to market (50 percent versus 33.3 percent) and less weight on past marketings (25 percent) and processing or refining capacity (25 percent). The estimated restraint on beet sugar marketings would decrease from approximately 195,000 tons, under an equal weighting scheme, to 144,000 tons. Constraining marketings by this amount is expected to have the necessary price impact to deter forfeitures and sufficiently support sugar beet prices while not contributing unnecessarily to inflation and not unduly restraining a small segment of the industry.

Establishment of Proportionate Shares

Section 359f(b) of the 1938 Act provides that whenever a State cane sugar allotment is established and there are in excess of 250 sugarcane producers in such State, other than Puerto Rico, the Secretary is required to determine, for each such State allotment, whether the production of sugar, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the State's allotment and provide a normal carryover inventory, and, if so, establish proportionate shares for the crop of sugarcane that is harvested during the fiscal year the allotment is in effect. There are in excess of 250 sugarcane producers in Louisiana, and the production of sugar, in the absence of proportionate shares, is estimated to be greater than the quantity needed to enable processors to fill the State's allotment and provide a normal carryover inventory. Accordingly, proportionate shares must be established for sugarcane farms in Louisiana.

Notice

Pursuant to sections 359b(b)(1) and 359b(c) of the 1938 Act, the Secretary of Agriculture has established allotments for the marketing of sugar processed from domestically produced sugar beets or sugarcane and crystalline fructose produced from field corn during fiscal year 1995. In addition, the Secretary has made the following determinations:

1. The September 1994 estimate of the quantities of sugar consumption, stocks, production, and imports in the United States (including Puerto Rico) for fiscal year 1995 is as follows:

	TST, raw value
Consumption	9,247
Reasonable ending (carry-over) stocks	1,278
Production	7,890
Beginning (carry-in) stocks	1,386
Imports	1,249

2. The overall allotment quantity for sugar is 7,889 TST.

3. The percentage factors for the beet sugar and raw cane sugar allotments are 55.2 percent and 44.8 percent, respectively. The Secretary established the percentage factors for the beet sugar and cane sugar allotments on the basis of past marketings of sugar (defined as the average of marketings of sugar from the 1985 through 1989 crops, excluding the highest and lowest years), processing and refining capacity (defined as the highest year's production in the preceding 5 crop years), and the ability of processors to market the sugar covered under the allotments (defined as the crop-year production estimate for the fiscal year in which allotments are implemented). In order to make the percentage factors fair, equitable, and efficient, the three criteria were weighted 25 percent for past marketings, 25 percent for processing and refining capacity, and 50 percent for ability to market. The data used to determine the percentage factors are as follows:

	TST, raw value	
	Beet sector	Cane sector
Past marketings.	3,430	3,341
Processing capacity.	4,408	3,539
Ability to market.	4,500	3,390
Average .	4,210 (55.2%)	3,415 (44.8%)

4. The beet sugar allotment is 4,355.5 TST.

5. The cane sugar allotment is 3,533.5 TST.

6. The State cane sugar allotments are:

	TST, raw value
Florida	1,687.380
Hawaii	773.180
Louisiana	869.856
Puerto Rico	71.397
Texas	131.650

7. Proposed marketing allocations for fiscal year 1995 for domestically produced beet sugar and raw cane sugar by U.S. sugar beet processors and sugarcane processors are as follows:

	Thousand short tons, raw value
Overall beet/cane allotments	
Beet sugar	4,355.5
Cane sugar (including Puerto Rico)	3,533.5
Total	7,889.0
State cane sugar allotments:	
Florida	1,687.380
Hawaii	773.180
Louisiana	869.856
Puerto Rico	71.397
Texas	131.650
Total cane sugar	3,533.463
Beet processors' marketing allocations:	
Amalgamated Sugar Co.	847.446
American Crystal Sugar Co.	1,039.146
Great Lakes Sugar Co.	49.983
Holly Sugar Corp.	702.416
Michigan Sugar Co.	253.173
Minn-Dak Farmers Co-op.	205.148
Monitor Sugar Co.	148.851
Savannah (ADSEP DIV).	28.286
So. Minn. Beet Sugar Co-op.	293.585
Spreckels Sugar Co.	319.306
Western Sugar Co.	468.198
Total beet sugar	4,355.538
Cane processors' marketing allocations:	
Florida:	
Atlantic Sugar Assoc.	139.110
Growers Co-op. of FL	278.868
Okeelanta Corp.	295.868
Osceola Farms Co.	188.340
Talisman Sugar Corp.	127.750
U.S. Sugar Corp	657.444
Total Florida	1,687.380
Hawaii:	
Hamakua Sugar Co.	77.805
Hawaiian Commercial & Sugar Co.	221.827
Hilo Coast Processing Co.	46.001
Ka'u Agribusiness Co.	52.067
Kekaha Sugar Co.	55.292
Lihue Plantation Co.	51.750
McBryde Sugar Co.	37.830
Oahu Sugar Co.	73.818
Olokele Sugar Co.	48.165
Pioneer Mill Co.	42.992
Waialua Sugar Co.	65.633
Total Hawaii	773.180
Louisiana:	
Alma Plantation	38.327
Caire & Graugnard	7.421
Cajun Sugar Co-op.	57.401
Caldwell Sugars Co-op.	33.229
Cora-Texas Mfg. Co.	66.015
Dugas & Leblanc	40.236
Evan Hall Factory	45.468
Glenwood Co-op.	33.478
Harry Laws & Co.	29.278
Iberia Sugar Co-op.	38.739
Jeanerette Sugar Co.	45.969
Lafourche Sugars Corp.	41.936
Louisiana Sugarcane Co-op.	60.270
M.A. Patout & Sons	99.484
Raceland Sugars	57.058
Savoie Industries	38.810
St. James Sugar Co-op.	40.099
St. Mary Sugar Co-op.	43.656
Sterling Sugars	52.982
Total Louisiana	869.856
Puerto Rico:	
Coloso	22.899
Mercedita	18.039
Plata	12.831
Roig	17.628
Total Puerto Rico	71.397
Texas:	
Rio Grande Valley Sugar Growers	131.650

8. The overall allotment in fiscal year 1995 for the marketing of crystalline fructose manufactured from corn is 159,757 short tons. Allotments will be established for the two U.S. manufacturers of crystalline fructose, and they will be notified of such allotments by certified mail.

9. There are in excess of 250 sugarcane producers in Louisiana, and the production of sugar, in the absence of proportionate shares, is estimated to be greater than the quantity needed to enable processors to fill the State's allotment and provide a normal carryover inventory. Therefore, as required the Agricultural Adjustment Act of 1938, as amended, proportionate shares on acreage of sugarcane that may be harvested in Louisiana for sugar or seed are established for the 1994 crop of sugarcane, in an amount equal to 108.57 percent of each farm's sugar acreage base.

Signed at Washington, DC this 12th day of October, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–25622 Filed 10–12–94; 2:57 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Discussion of the 1995 Census Test Service-Based Enumeration Operation; Notice of Public Meeting

The Census Bureau is giving notice of a meeting to provide information about the "Service-Based Enumeration Operation" planned for the 1995 Census Test. The meeting will convene on October 31, 1994, at 9 a.m. and will adjourn at 11 a.m. This meeting will be held at the Census Bureau, Conference Center, Federal Building 3, Suitland, Maryland.

The 1995 Census Test is a continuation of the Census Bureau's research on fundamental changes to reduce the differential undercount from the 1990 census and to contain the cost of the census. The 1995 Census Test will include operations to count people in housing units and in group quarters (such as nursing facilities and college dormitories), and at selected locations that provide services to homeless and needy people. The Census Bureau plans to conduct a test of the feasibility of enumerating people at locations that provide services to homeless and needy people, such as shelters and soup kitchens. Beginning March 1995, Oakland, California; Paterson, New Jersey; and six parishes in northwest Louisiana will be enumerated. This operation is one of the various enumeration methods aimed at improving coverage in the 2000 census for people likely to be missed by standard enumeration procedures for housing units.

The Census Bureau will invite representatives from national organizations that represent providers of services to the homeless population. At the meeting, the Census Bureau will discuss the general purpose of the 1995 Census Test and will provide details of the Service-Based Enumeration operational activities. This meeting should be of significant interest to those organizations that are representatives of national and state coalitions on the homeless, involved with homeless research issues, homeless advocates, service providers, and users of population data from the decennial census.

The tentative agenda for the meeting is: (1) Opening Remarks, (2) Overview of the 1995 Census Test, (3) Overview of the "Service-Based Enumeration Operation," (4) Public Questions, and (5) Closing Remarks. The meeting will be audio recorded.

This meeting is open to the public; however, seating is limited. Please contact Sandra Lucas on 301–763–5337 by October 24 if you plan to attend. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids also should be directed to Sandra Lucas by October 24.

Persons wishing additional information regarding this meeting, may contact Sandra Lucas, Decennial Management Division, Bureau of the Census, Room 3561–3, Washington, DC 20233–7100. Telephone: 301–763–5337 (TDD) 301–763–4944.

Dated: October 11, 1994.

Harry A. Scarr,

Acting Director, Bureau of the Census.

[FR Doc. 94–25624 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–07–P

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held November 4, 1994, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to computer systems and technology.

Agenda

Executive Session

9:00 a.m.–10:00 a.m.

1. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

General Session

10:00 a.m.–2:30 p.m.

2. Opening remarks by the Chairmen.
3. Presentation of papers or comments by the public.
4. Discussion of Export Administration Regulations rewrite and its affect on computer regulations.
5. Report of Composite Theoretical Performance (CTP) working group on aggregation of computer performance.
6. Preparation for the 1995 annual review of supercomputer controls.
7. Discussion on foreign policy controls placed on computers.

Executive Session

2:45 p.m.–4:00 p.m.

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: October 11, 1994.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–25576 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DT–M

Materials Processing Equipment Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Materials Processing Equipment Technical Advisory Committee will be held November 7, 1994, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street & Pennsylvania Avenue, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: October 11, 1994.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–25577 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DT–M

National Defense Stockpile Market Impact Committee Request for Public Comments

AGENCY: Office of Strategic Industries and Economic Security, Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Notice of request for public comment on the market impact of: (1) proposed disposals of excess commodities currently held in the National Defense Stockpile under the Fiscal Year 1996 Annual Materials Plan, and (2) revisions to commodities proposed for disposal under the fiscal Year 1995 Annual Materials Plan.

SUMMARY: This notice is to advise the public that the National Defense Stockpile Market Impact Committee (co-chaired by the Departments of Commerce and State) is seeking public comment on the market impact of proposed disposals of excess materials currently held in the National Defense Stockpile.

DATE: Comments must be received not later than November 16, 1994.

ADDRESSES: Written comments (10 copies) should be addressed to Richard V. Meyers, Co-Chair, Stockpile Market Impact Committee, Office of Strategic Industries and Economic Security, Room 3878, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:
Richard V. Meyers, Office of Strategic Industries and Economic Security, U.S. Department of Commerce, (202) 482–3634 or Stephen G. Brundage, Office of International Commodities, U.S. Department of State, (202) 647–2871 (co-chairs of the National Defense Stockpile Market Impact Committee).

SUPPLEMENTARY INFORMATION: The Strategic and Critical Materials Stock Piling Act of 1979, as amended, (50 U.S.C. 98 *et seq.*) authorizes the maintenance of strategic and critical materials in the National Defense Stockpile "to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources of supplies of such materials in times of national emergency." The Department of Defense, as National Defense Stockpile Manager, may dispose of materials in the stockpile that have previously been authorized for disposal by law and have been determined to be excess to national security requirements. In managing the stockpile, Defense must protect the United States against avoidable loss while at the same time "efforts shall be made * * * to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials."

Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to "advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *." the Committee includes representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, Treasury and the Federal Emergency Management Agency and is co-chaired by the Departments of Commerce and State. The NDAA for Fiscal Year 1993 directs the Committee to "consult from time to time with representatives of producers, processors and consumers of the types of materials stored in the stockpile."

It is Defense's intent that the National Defense Stockpile be a dependable, long term source of material. The material will be sold as close to market prices as the conditions of sale permit (e.g., consideration will be given for the certifiable quality of the materials being sold, and any appropriate transportation differential). In order to protect the United States against avoidable loss, Defense intends to exercise restraint regarding the quantities and timing of any offers of excess materials for sale.

The Committee will soon begin its consideration of Defense's FY 1996 annual Materials Plan (AMP) of proposed disposals and acquisitions of stockpile materials and will also consider revisions to the FY 1995 AMP. The following, with exceptions noted, are the materials for which Defense has been granted disposal authority by Congress, and which therefore may be included in the FY 1996 AMP.

Commodities which *May* be Included in FY 1996 AMP.

Aluminum Oxide, Abrasive
Aluminum Oxide, Fused Crude
Analgesics
Asbestos (all types)
Antimony
Bauxite, Metallurgical (Jamaican)
Bauxite, Metallurgical (Surinam)
Bauxite, Refractory
Beryl Ore
Bismuth
Cadmium
Celestite
Chromite, Chemical
Chromite, Metallurgical
Chromite, Refractory
Chromium, Ferro Alloys [1]
Cobalt
Diamond Bort
Diamond Stone
Fluorspar, Acid
Fluorspar, Metallurgical
Graphite, Natural Malagasy
Graphite, Natural Other
Iodine
Lead
Manganese, Battery Grade Natural
Manganese, Chemical Grade
Manganese, Electrolytic
Manganese, Ferro Alloys [1]
Manganese, Metallurgical Grade
Mercury
Mica, Muscovite Block
Mica, Muscovite Film
Mica, Muscovite Splittings
Mica, Phlogopite Splittings
Nickel
Quinidine
Quinine
Quartz Crystals, Natural
Sapphire & Ruby
Sebacic Acid
Silicon Carbide
Silver (for coinage)
Talc
Tin
Thorium Nitrate
Vegetable Tannin Extract, Chestnut
Vegetable Tannin Extract, Quebracho
Vegetable Tannin Extract, Wattle
Zinc

Listed below are the materials in the FY 1995 AMP for which Defense proposes disposal revisions:

Aluminum Oxide, Abrasive
Antimony
Cadmium
Chromite, Refractory
Diamond Bort
Fluorspar, Acid
Fluorspar, Metallurgical
Jewel Bearings
Kyanite
Lead
Manganese, Metallurgical
Mercury
Mica, Muscovite Film
Rutile
Sapphire & Ruby
Talc
Vegetable Tannin Extract, Wattle
Zinc

In order for the Committee to obtain sufficient information to prepare its recommendations to Defense, the Committee hereby requests that interested parties provide comments on the potential market impact of stockpile disposals of the materials which have been identified above as possible candidates for sales in FY 1996 as well as the materials in the FY 1995 AMP for which Defense proposes to revise disposals.

Although comments, in response to this notice must be received by _____, _____, 1994 (30 days after publication) for the Committee to consider them in its evaluation of the FY 1996 AMP and the proposed revisions to the FY 1995 AMP, the Committee would welcome further comments as the sales proceed. Interested parties are invited to submit written comments, opinions, data, information, or any advice that would be useful to the Committee in reviewing proposed schedules and quantities of Stockpile sales. All materials should be submitted with *10* copies.

Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified or business confidential information will be exempted from public disclosure. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–5653. The records in this facility may be inspected and copied in accordance with the regulations published in Part 4 of Title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

[1] Commodities have not received Congressional approval for disposal.

Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address and telephone number.

Dated: October 11, 1994.

John A. Richards,

Deputy Assistant Secretary for Strategic Industries and Economic Security.

[FR Doc. 94–25540 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[C–307–702]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On June 10, 1994, the Department of Commerce (the Department) published the preliminary results of its administrative review of the countervailing duty order on certain electrical conductor aluminum redraw rod from Venezuela for the period January 1, 1992, through December 31, 1992 (59 FR 29984). We have now completed that review and determine that the cash deposit rate of estimated countervailing duties to be 0.50 percent *ad valorem*, the rate established in the final results of the last administrative review of this order (57 FR 36063; August 12, 1992).

EFFECTIVE DATE: October 17, 1994.

FOR FURTHER INFORMATION CONTACT: Gayle Longest 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

On June 10, 1994, the Department published in the **Federal Register** (59 FR 29984) the preliminary results of its administrative review of the countervailing duty order on certain electrical conductor aluminum redraw rod from Venezuela (53 FR 31904; August 22, 1988). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of certain electrical conductor aluminum redraw rod from Venezuela, which are wrought rod of aluminum that is electrically conductive and contains not less than 99 percent of aluminum by weight. This merchandise is currently classifiable under item numbers 7604.10.3010, 7604.10.3050, 7604.29.3010, 7604.29.3050, 7605.11.0030, 7605.11.0090, 7605.19.0000, 7605.21.0030, 7605.21.0090 and 7605.29.0000 of the *Harmonized Tariff Schedule* (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review period is January 1, 1992 through December 31, 1992.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine that there are no known entries of the subject merchandise into the United States during the period January 1, 1992, through December 31, 1992. Therefore, we determine the estimated net subsidy to be 0.50 percent *ad valorem*, the cash deposit rate established in the final results of the last administrative review (57 FR 36063; August 12, 1992).

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.50 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Venezuela entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. These instructions shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 5, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–25631 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DS–P

[C–401–056]

Viscose Rayon Staple Fiber From Sweden Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. We preliminarily determined the net subsidy to be 0.26 percent *ad valorem* for the period January 1, 1991 through December 31, 1991. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 17, 1994.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1992, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 19412) of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 28319; May 15, 1979). Svenska Rayon AB, a producer and exporter of viscose rayon staple fiber, made a timely request that we conduct an administrative review of the order for the period January 1, 1991 through December 31, 1991. We initiated the review on June 18, 1992 (57 FR 27212). The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is classifiable under item number 5504.10.00 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1991 through December 31, 1991, and

one program. The only known Swedish producer/exporter of this merchandise to the United States is Svenska Rayon AB (Svenska).

Analysis of Program

Elderly Employment Compensation Program

The Swedish government provided a subsidy to certain companies within the textile and apparel industries through a special employment contribution for older workers. This program provided compensation to a company based upon the number of hours worked by employees over 50 years of age. A company participating in the program had to agree not to dismiss or release redundant employees of any age for any reason other than normal attrition. Payments were calculated on the basis of 28 Swedish kroner per hour for employees over age 50 who were involved in production. The payment could not exceed 15 percent of the company's total labor costs. In prior administrative reviews of this order, this program was determined to be countervailable because the program was available only to certain companies within the textile and apparel industry. (*See e.g., Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Countervailing Duty Administrative Review* (57 FR 6493; February 25, 1992) and *Viscose Rayon Staple Fiber From Sweden; Final Results of Countervailing Duty Administrative Review* (57 FR 12912; April 14, 1992)).

Svenska received its last payment under this program in July 1982. In January 1983, the Swedish government excluded the rayon fiber industry, including Svenska, from this program. We have calculated the benefit stream using the declining balance methodology. We allocated the benefits from the grant received in 1982 over the 10-year average useful life of assets in the rayon fiber industry, according to the "Asset Guideline Classes" of the Internal Revenue Service. As in prior reviews of the subject merchandise, we used Svenska's 1982 weighted cost of capital as the discount rate.

We divided the benefit attributable to the review period by the value of Svenska's total revenue during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.26 percent *ad valorem*.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 0.26 percent *ad valorem* for the period January 1, 1991 through December 31, 1991. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

If the final results of this review remain unchanged from these preliminary results, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1991 and on or before December 31, 1991.

Further, upon completion of this review the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of zero, as provided for by section 751(a)(1) of the Act, on all shipments of this merchandise from Sweden entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology. Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 C.F.R. 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 C.F.R. 355.38(c), are due.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–25633 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–106. *Applicant:* Texas A&M Research Foundation, Box 3578, University Drive & Wellborn Road, College Station, TX 77843-3578. *Instrument:* Two Fluorometers and Accessories, Model AquatrackA MK III. *Manufacturer:* Chelsea Instruments, United Kingdom. *Intended Use:* The instruments will be used to measure chlorophyll-a (produced by phytoplankton) in order to distinguish the percentage of water turbidity caused by phytoplankton from turbidity caused by inorganic suspended sediment. One instrument will be deployed on a fixed platform in the Lower Laguna Madre, Texas and automatically collect data at selected time intervals. The second instrument will be deployed on a boat which will profile the water column at selected locations. The data collected will be stored on computers and analyzed for periodic variability in chlorophyll-a content of the bay water. *Application Accepted by Commissioner of Customs:* September 9, 1994.

Docket Number: 94–107. *Applicant:* Brigham Young University, Purchasing Department, C-144 ASB, Provo, UT 85602. *Instrument:* Excimer-Pumped Laser System. *Manufacturer:* Lambda-Physik, Germany. *Intended Use:* The instrument will be used to determine elemental concentration in a wide range of materials, including inorganic compounds and high molecular weight organic molecules. It will also be used in the fundamental characterization of analytically useful plasmas and in studies of supersonically cooled molecules and molecules on surfaces. In addition, the instruments will be used in undergraduate and graduate research courses in chemistry giving students hands-on training with significant

research problems. *Application Accepted by Commissioner of Customs:* September 13, 1994.

Docket Number: 94–108. *Applicant:* Arizona State University, Department of Physics & Astronomy, Box 871504, Tempe, AZ 85387-1504. *Instrument:* Toroidal Electrostatic Analyzer. *Manufacturer:* High Voltage Engineering Europa, The Netherlands. *Intended Use:* The instrument will be used for studies of crystalline semiconductors and metals in bulk form and in thin film form to determine the precise location and identity of atoms at or very near the surface. In addition, the instrument will be used to train graduate students in state-of the-art ion beam analysis techniques. *Application Accepted by Commissioner of Customs:* September 15, 1994.

Docket Number: 94–109. *Applicant:* Medical College of Pennsylvania, Anatomy & Neurobiology Department, 3200 Henry Avenue, Philadelphia, PA 19129. *Instrument:* High Intensity Xenon Flashlamp System, Model HF-10. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used for studies of fundamental properties of the regulation of stimulu-secretion coupling for neurotransmitters in living single isolated cells and nerve terminals. *Application Accepted by Commissioner of Customs:* September 15, 1994.

Docket Number: 94–110. *Applicant:* Dartmouth College, Department of Earth Sciences, Hanover, New Hampshire 03755. *Instrument:* Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used for analyzing oxygen and carbon isotopes of rocks and minerals, plants and animals, and waters for geological, biological and environmental studies. The research will include the following: ecosystem research, low temperature geochemistry, high temperature geochemistry, and impact geochemistry. In addition, the instrument will be used in both undergraduate and graduate level courses to introduce students to the concepts of isotope geochemistry. *Application Accepted by Commissioner of Customs:* September 22, 1994.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–25632 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

Business Development Center Applications: Cleveland, OH

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Cleveland, Ohio Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Cleveland, Ohio Metropolitan Area. The award number of the MBDC will be 05–10–95003–01.

DATES: The closing date for applications is December 1, 1994. Applications must be received in the Chicago Regional Office on or before December 1, 1994. A preapplication conference will be held on November 4, 1994, at 10:00 a.m., at GSA—Anthony Day Celebreze, 1240 East Ninth Street, Room 779, Cleveland, Ohio.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, Chicago Regional Office, 55 East Monroe Street, Suite 1406, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: David Vega at (312) 353–0182.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from April 1, 1995 to March 31, 1996, is estimated at $222,196. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share 15% $33,329 in non-federal (cost-sharing) contributions for a total project cost of $222,196. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and

copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs.—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable.—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy.—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination.—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements.—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications.—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension.—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace.—Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying.—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures.—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications.—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products.—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance).

Dated: October 11, 1994.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 94–25578 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Columbus, OH

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Columbus, Ohio Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Columbus, Ohio Metropolitan Area. The award number of the MBDC will be 05–10–95004–01.

DATES: The closing date for applications is December 1, 1994. Applications must be received in the Chicago Regional Office on or before December 1, 1994. A preapplication conference will be held on November 3, 1994, at 2:00 p.m., at U.S. Courthouse, 85 Marconi Boulevard, Room B–22, Columbus, Ohio.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, Chicago Regional Office, 55 East Monroe Street, Suite 1406, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: David Vega (312) 353–0182.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from April 1, 1995 to March 31, 1996, is estimated at $198,971. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share 15% $29,846 in non-Federal (cost-sharing) contributions for a total project cost of $198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind

contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. to assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs.—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable.—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy.—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty of financial integrity.

Award Termination.—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements.—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications.—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension.—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace.—Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying.—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures.—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications.—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities," Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products.—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in

Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance).

Dated: October 11, 1994.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 94–25579 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Meeting of Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAAS), Department of Commerce.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council Open Meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary.

TIME AND PLACE: Friday, October 28, 1994 from 9:00 until 4:00. The meeting location will be at the Moss Landing Chamber of Commerce, 8045 Moss Landing Road, Moss Landing, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including jade collection and shark chumming.

PUBLICATION PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647–4201 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program.

Dated: October 11, 1994.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 94–25584 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–08–M

Patent and Trademark Office

Conference on "Fair Use" and the National Information Infrastructure (NII)

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of meetings.

SUMMARY: The Working Group on Intellectual Property Rights of the White House Information Infrastructure Task Force (IITF) is sponsoring a conference to bring together copyright owner and user interests to develop voluntary guidelines for fair uses of copyrighted works by and in public libraries and schools. The first meeting of the conference was held in Washington, DC, on September 21, 1994. Notice of that meeting and other details about the conference were published at 59 FR 46823 on September 12, 1994. Three subcommittees were formed at the first meeting. Subsequent meetings for those subcommittees have been scheduled. The meetings are open to the public, limited only by the seating availability in the room.

DATES: The Library Subcommittee of the Conference on Fair Use will meet from 10:00 a.m. to 1:00 p.m. on Friday, October 21, 1994. The Elementary—High School Subcommittee will meet from 10:00 a.m. to 1:00 p.m. on Monday, October 24, 1994. The University Subcommittee will meet from 10:00 a.m. to 1:00 p.m. on Wednesday, October 26, 1994.

ADDRESSES: The subcommittee meetings will be held at the Patent and Trademark Office in Room 912 of Crystal Park Two, 2121 Crystal Drive, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Chris Meyer or Michael O'Neil, Office of Legislative and International Affairs, U.S. Patent and Trademark-Office, Box 4, Washington, DC 20231. Telephone: (703) 305–9300/Fax: (703) 305–8885.

SUPPLEMENTARY INFORMATION: The Working Group on Intellectual Property Rights, chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman, was established as part of the White House Information Infrastructure Task Force. The Task Force, chaired by Secretary of Commerce Ronald H. Brown, was created to work with Congress and the private sector to develop comprehensive telecommunications and information policies aimed at articulating and implementing the Administration's vision for the National Information Infrastructure (NII).

The Working Group on Intellectual Property Rights issued "Intellectual Property and the National Information Infrastructure: A Preliminary Draft of the Report of the Working Group on Intellectual Property Rights" in July of 1994. The Preliminary Draft represented the Working Group's examination and analysis to date of the intellectual property implications of the NII, and included the Group's draft findings and recommendations. In the Preliminary Draft, the Working Group expressed concerns about the applicability of the library, educational use, and fair use exemptions of the Copyright Act, as well as the voluntary guidelines, for libraries and schools in the NII environment. The Working Group suggested that at least the guidelines for library and educational use of printed matter and music that were voluntarily adopted by diverse parties and set out in the House and Conference Reports accompanying the Copyright Act require modification or elaboration to deal with digital works and on-line services. The Conference on Fair Use was established to facilitate that process.

Dated: October 12, 1994.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 94–25712 Filed 10–14–94; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice postponing publication of section two of the combined application notice for fiscal year 1995.

SUMMARY: The Secretary postpones publication of section two of the Department's annual combined application notice (CAN) for fiscal year (FY) 1995. The Secretary takes this action for reasons stated elsewhere in this notice. The postponement is designed to make the CAN as useful as possible to the educational community and other parties interested in programs administered by the Department.

SUPPLEMENTARY INFORMATION: On June 10, 1994 the Secretary published in the **Federal Register** (59 FR 30190) the first section of the CAN for FY 1995. Included in that document were individual notices inviting applications for new awards under 65 programs and competitions. These were direct grant and fellowship programs administered mainly by the Office of Postsecondary Education and the Office of Special Education and Rehabilitative Services.

Since June 10 a number of other programs have published application notices for new awards for FY 1995.

In the document published on June 10, the Secretary announced the Department's intent to publish a second section of the CAN for FY 1995 in September, 1994. However, legislation authorizing or reauthorizing many of the Department's remaining programs has only recently been passed by the Congress. This legislation includes programs administered by the Office of Bilingual Education and Minority Languages Affairs and the Office of Elementary and Secondary Education, some programs of the Office of Educational Research and Improvement, and some programs of the Fund for the Improvement of Postsecondary Education.

These programs could not publish application notices in September without enacted legislation authorizing the programs and, in some cases, without necessary implementing regulations or notices of funding priorities. Thus, the Secretary believes it would be more helpful to the Department's customers to delay publication of the second section of the CAN until a time when application notices for most of these programs can be published or, at least, listed with an estimated date for publication.

In addition to awards under programs affected by reauthorization, awards under some other programs and competitions are to be governed by new regulations or funding priorities that have not yet been issued in final form. Still other programs and competitions must delay publication of application notices for FY 1995 pending approval of application forms by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

The Secretary estimates that publication of section two of the CAN for FY 1995 will take place before the end of January 1995. That document will (1) include any individual application notices ready for publication at the time, (2) reference all application notices for FY 1995 previously announced in the **Federal Register**, including those contained in section one of the CAN, which was published on June 10, 1994, and (3) give estimated dates for programs and competitions for which application notices are to be published at a later date.

In the meantime, the Department will continue to publish individual application notices when they are ready.

FOR FURTHER INFORMATION CONTACT: For further information about a program, please write to that program at the U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202. Telephone numbers for programs and individuals may be obtained from the Department's Locator Service at (202) 708–5366 or, if calling from outside the Washington, DC, area, at (800) 572–5580.

For Further Information about the CAN: For further information about the CAN only, please contact Stanley M. Cohen, Department Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW., room 5121, Federal Building 10B, Washington, DC 20202. Telephone: (202) 401–8300.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, for a program or person at the Department. If a TDD number is not assigned to a program or person, individuals who use a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: October 12, 1994.

Richard W. Riley,

Secretary of Education.

[FR Doc. 94–25623 Filed 10–14–94; 8:45 am]

BILLING CODE 4000–01–P

[CFDA Nos. 84.047 and 84.217]

Upward Bound and Ronald E. McNair Postbaccalaureate Achievement Program; Technical Assistance Workshops

SUMMARY: The Department of Education will conduct 10 technical assistance workshops to assist prospective applicants in developing proposals for the Upward Bound and Ronald E. McNair Postbaccalaureate Achievement programs. The Upward Bound program provides Federal grants to projects designed to generate the skills and motivations necessary for participants to persist in completing a program of secondary education and entering and completing a program of postsecondary education. The Ronald E. McNair Postbaccalaureate Achievement program awards grants to institutions of higher education for projects designed to provide disadvantaged college students with preparation for doctoral study. The technical assistance workshops will be held as follows:

University of Chicago, Ida Noyes Hall Cinema—1st Floor, 1212 East 59th Street, Chicago, IL 60637; Contact: Terhonda Palacios, (312) 702–8288, Fax No. (312) 702–0189; October 31, 1994, 8 a.m.–5 p.m.

California State University/Los Angeles, 5151 State University Drive, University Student Union, Los Angeles Room, Los Angeles, CA 90032; Contact: David Godoy, (213) 343–3103, Fax No. (213) 343–6426; October 31, 1994, 8 a.m.–5 p.m.

Dillard University, Kearney Hall, Kearney Lounge, 1st floor, 2601 Gentilly Blvd., New Orleans, LA 70122; Contact: Sophia Woodard-Payne, (504) 283–8552; November 2, 1994, 8 a.m.–5 p.m.

Portland State University, 1825 S.W. Broadway, Ballroom Smith Center, Rm. 355, Portland, OR 97207; Contact: Peggy Adams, (503) 725–4010, Fax No. (503) 725–4882; November 2, 1994, 8 a.m.–5 p.m.

University of Colorado/Denver, Tivoli Building, Room 320C, 901 Larimer Street, Denver, CO 80204; Contact: Kathy Jackson, (303) 556–2802, Fax No. (303) 556–3825; November 4, 1994, 8 a.m.–5 p.m.

University of Missouri/Kansas City, 5100 Rockhill Road, University Center, Room 106, Kansas City, MO 64110; Contact: Linda J. Carter, (816) 235–1115, Fax No. (816) 235–5156; November 7, 1994, 8 a.m.–5 p.m.

Boston University, 775 Commonwealth Avenue, George Sherman Union (GSU), 2nd Floor Conference Auditorium, Boston, MA 02215; Contact: Lois Smith, (617) 353–3551 or (617) 353–3552, Fax No. (617) 353–3924; November 7, 1994, 8 a.m.–5:00 p.m.

Morris Brown College, Atlanta University Center, Robert W. Woodruff Library, Exhibition Hall—Upper Level, 111 James P. Brawley Dr., S.W., Atlanta, GA 30314; Contact: Marvin King, (404) 220–0384 or (404) 220–0396, Fax No. (404) 220–0154; November 9, 1994, 8 a.m.–5 p.m.

Fordham University, Lincoln Center, 113 West 60th Street, New York, NY 10023, Pope Auditorium; Contact: Elliott Palais, (718) 817–5985, Fax No. (718) 817–2513; November 9, 1994, 8 a.m.–5 p.m.

GSA Auditorium, ROB #3, 7th and D Streets, S.W., Washington, DC 20202; Contact: Carlos Stewart, (202) 708–4804, Fax No. (202) 401–6132; November 18, 1994, 8 a.m.–5 p.m.

Agenda

Pre-Application Workshop

8 a.m.–8:15 a.m.—Registration.
8:15 a.m.–8:30 a.m.—Introductions.
8:30 a.m.–12:30 p.m.—
UPWARD BOUND: Legislation, Proposed Regulations, Application

Booklet, Tips for Writing an Application, Questions and Answers

12:30 p.m–1:30 p.m.—Lunch

1:30 p.m–4:30 p.m.—RONALD E. McNAIR POSTBACCALAUREATE ACHIEVEMENT PROGRAM: Legislation, Regulations, Application Booklet, Questions and Answers

4:30 p.m.–5 p.m.—Wrap-up

All workshops are free and open to the public. Please telephone or fax pre-registration information to the appropriate contact person. Include name, program choice (Upward Bound, McNair, or both), number of persons attending, and institution, agency, or organization.

FOR FURTHER INFORMATION CONTACT: Carlos Stewart, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5249. Telephone: (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: October 12, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–25591 Filed 10–14–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–639–000, et al.]

Central Vermont Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 7, 1994.

Take notice that the following filings have been made with the Commission:

1. Central Vermont Public Service Corp.

[Docket No. ER94–639–000]

Take notice that on August 22, 1994, Central Vermont Public Service Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Puget Sound Power & Light Co.

[Docket No. ER94–1111–000]

Take notice that on August 22, 1994, Puget Sound Power & Light Company tendered for filing an amendment in above-referenced docket.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Detroit Edison Co.

[Docket No. ER94–1458–000]

Take notice that on September 6, 1994, Detroit Edison Company tendered for filing an amendment to its July 15, 1994, filing in the above-referenced docket.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. AIG Trading Corp.

[Docket No. ER94–1691–000]

Take notice that on September 29, 1994, AIG Trading Corporation (AIGTC), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.205, 385.207 (1994)) its Rate Schedule No. 1, to be effective 60 days from and after September 29, 1994, together with a petition for a clarification of various matters, and for certain waivers and blanket approvals under various regulations of the Commission.

AIGTC intends to engage in electric power and energy transactions as a marketer. AIGTC's power marketing activities will include purchases of capacity, energy, and/or transmission services from electric utilities, qualifying facilities, and independent power producers. AIGTC will resell such power to other purchasers on an arms-length basis and at mutually agreed upon rates. AIGTC is not in the business of producing or transmitting electric power and does not have title to any electric power generation or transmission facilities.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Missouri Public Service

[Docket No. ER94–1692–000]

Take notice that on September 29, 1994, Missouri Public Service, a division of UtiliCorp United, Inc., tendered for filing a tariff providing for sales of power and energy as variable rates at or below the fully allocated costs of the units providing the power and energy but not less than Missouri Public Service's incremental energy costs. The tariff provides for unit power sales and system incremental capacity and energy sales.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Atlantic City Electric Co.

[Docket No. ER94–1693–000]

Take notice that on September 30, 1994, Atlantic City Electric Company (ACE) tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Enron Power Marketing, Inc. ACE requests that the Agreement be accepted to become effective October 3, 1994.

Copies of the filing were on the New Jersey Board of Regulatory Commissioners.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Co.

[Docket No. ER94–1694–000]

Take notice that on September 30, 1994, New England Power Company (NEP), tendered for filing a power sales contract entered into with Catex-Vitol Electric, Inc.

Comment date: October 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Power Co., L.P.

[Docket No. QF88–20–001]

On September 23, 1994, Washington Power Company, L.P. tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure and technical aspects of the facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: October 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25613 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–267–001, et al.]

NorAm Gas Transmission Company, et al.; Natural Gas Certificate Filings

October 6, 1994.

Take notice that the following filings have been made with the Commission:

1. NorAm Gas Transmission Co.

[Docket No. CP94–267–001]

Take notice that on October 4, 1994, NorAm Gas Transmission Company (NGT), formerly Arkla Energy Resources Company, 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–267–001 an amendment to its original application filed in Docket CP94–267–000 pursuant to Section 7(c) of the Natural Gas Act for authorization to replace and rearrange existing mainline pipeline, abandon minor storage and gas supply facilities, and make certain mainline enhancements to its pipeline system in Arkansas, Louisiana, and Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

NGT indicates that in its original application, it proposed to install two 2,250 h.p. slow speed reciprocal compressor units on its Line F in the existing Ruston Storage Compressor yard and rearrange and upgrade its Ruston Storage Compressor to perform both storage and mainline compression service, as part of its proposed mainline enhancements, at an estimated cost of $11.0 million.

NGT is amending its application to reflect a change in its proposed mainline enhancements. NGT states that it is amending its application to modify the compression facilities that were originally proposed to be installed and rearranged in its Ruston Storage Compressor yard. NGT explains that it now proposes to install one 2,200 h.p. MEP compressor unit on Line F in its existing Ruston Storage Compressor yard to provide injection/withdrawal service and rearrange its existing Ruston Storage Compressor to perform mainline compression service, at a revised estimated cost of $4.6 million.

Comment date: October 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Transwestern Pipeline Co.

[Docket No. CP94–751–001]

Take notice that on October 3, 1994, Transwestern Pipeline Company (Transwestern), Post Office Box 1188, Houston, Texas 77251–1188 filed an amendment (Amendment) to its original application in Docket No. CP94–751–000, which was filed pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon certain facilities. Transwestern states that the Amendment incorporates the corrected and revised attachments to the original application for abandonment, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in the process of analyzing Transwestern's system in response to the May 27, 1994, series of gathering orders issued by the Commission and while preparing for further proceedings in Transwestern's refunctionalization proceeding in Docket No. CP94–254–000, it was discovered that certain field facilities, including compressors, plants, meters, dehydrators and miscellaneous associated facilities are no longer used and useful or are uneconomical or otherwise unnecessary for continued operation of the pipeline. Therefore, Transwestern states that it filed the original abandonment application on August 30, 1994. Transwestern determined that it would be most practical and efficient to promptly lay the groundwork for the abandonment of said facilities and withdraw them from Transwestern's refunctionalization proceeding where they had been previously included. Transwestern states that it felt that this sequencing would avoid the necessity of needlessly determining the facilities primary function when they were, except for the uneconomical Halley Plant, unused and unuseful.

After filing the abandonment application, Transwestern states that it was discovered that there were several discrepancies in the attachments to the application. Transwestern states that the discrepancies have now been corrected and are the subject of its Amendment. Transwestern states that the following is a summary description of the changes made to the application's attachments:

a. *Text.* Only one page of text has been amended by the addition of the word "approximately" in the fourth line of the second full paragraph of Section VII.

b. *Compression Facilities—Appendix 1.*

Appendix 1, which includes the detail on all of the compressors has been amended as follows:

i. *Summary Sheet.*

The Appendix 1 summary sheet has been amended in that the asterisks which had indicated which of the compressors had also been included in the refunctionalization filing in Docket No. CP94–254–000 have been removed. The asterisks have been removed because Transwestern states that it has determined that, in fact, knowing which of the facilities in the abandonment filing are included in the refunctionalization filing is a meaningless exercise; the original refunctionalization filing made on February 25, 1994 only included those facilities for which Transwestern requested a changed functionalization. Therefore, multiple facilities which Transwestern included in the abandonment proceeding were not included in the refunctionalization proceeding because no change in functionalization was requested. Transwestern states that realistically, the primary function that a facility had when it was active is irrelevant to a determination of whether it is in fact now used and useful. Transwestern states that it has concluded that the asterisks have created more confusion than necessary and that the application for abandonment would be more meaningful without them.

The system numbers for the Reger Stuart No. 726, the A.R. King No. 721, the Kemnitz Nos. 864 and 884 have been corrected.

The line segment numbers have been corrected for the Hoeppner No. 854, Meier Cruise No. 813, A.R. King No. 721, W. Waha No. 749 and the Pecos River No. 839 compressors.

Additionally, it is stated that the original cost has been corrected for all of the compressors but the Reger Stuart No. 726, the Meier Cruise No. 813, the W. Waha No. 749 and the Monument No. 811 compressors. These corrections have been made due to the fact that the database from which the data was originally retrieved has been scrubbed in order to formulate Appendixes A and B of the refunctionalization data response, a process that had not been performed when this abandonment was originally filed. Finally, a cost total has been added to the table.

ii. *Individual Compressor Data Sheets.*

All of the compressor data sheets behind the summary sheet have been amended by the removal of line 4 which indicated whether the compressor had been included in the refunctionalization proceeding. Additionally, the original

cost figures have been changed for all of the compressors except the Reger Stuart No. 726, the Meier Cruise No. 813, the W. Waha No. 749 and the Monument No. 811 compressors. Finally, Page 14, line 7 has been amended so that on in service date of 1969 is reflected.

c. *Plants—Appendix 2.*

i. *Summary Sheet.*

The summary sheet in Appendix 2 has been amended to remove the asterisks for those plants included in the refunctionalization filing.

The original cost for all of the plants except the Huber Plant has been adjusted to reflect the refinement of the facilities database as described above. In addition, the cost for the Bell Lake Plant has been revised because two compressors and an extraneous piece of pipeline were included in the original number in error. Finally, a cost total for the plants has been added to the summary sheet.

ii. *Individual Plant Data Sheets.*

Line 3 has been deleted on all of the individual plant data sheets to eliminate the cross reference to the refunctionalization proceeding. The original cost figures have been corrected for each plant except the Huber plant.

In addition, Transwestern states that its field personnel have compiled more detailed information for each of the plants included in the abandonment proceeding with regard to estimates of salvage value, removal costs and reclamation costs. Thus, the entries on lines 12, 13 and 14 on the individual plant data sheets have been amended to reflect a more individualized estimate. Finally, the entries on the Walton, Keystone and Bell Lake Plants on line 14 have been amended to reflect that more facilities than originally indicated are excepted from the abandonment filing.

d. *Appendix 3—Meters, Dehydrators and Associated Facilities.*

Appendix 3 has been amended to remove the asterisks which had indicated that certain facilities had been included in the refunctionalization filing.

Corrections were made to 120 original cost figures, again due to the refinement of the facilities database in connection with the data responses in Docket No. CP94–254–000. Sixteen line entries were deleted for facilities which had been improperly included in the appendix, and ten facilities were added which had been improperly excluded from the appendix. Finally, nine docket numbers contained typographical errors and were corrected.

e. *Exhibit Y—Accounting Treatment of Abandonment.*

As a result of the above corrections and amendments, the entries in Exhibit Y have also changed in Category 1 (Original Cost of Facilities Proposed to be Abandoned); Category 2 (Cost of Removal); Category 3 (Salvage); Category 4 (Proposed Entries to Account); Category 6 (Accumulated Deferred Income Taxes); and Category 7 (accrued Current Income Taxes).

Comment date: October 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Gas Transmission Corp.

[Docket No. CP94–810–000]

Take notice that on September 28, 1994, Texas Gas Transmission Corporation (Texas Gas), filed in Docket No. CP94–810–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point in Marshall County, Kentucky, to serve an existing customer, the City of Benton, Kentucky (Benton), under Texas Gas' blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that the new delivery point would enable Benton to accommodate increased heating and industrial load growth occurring in the area and would be known as the Benton #2 Delivery Point.

Texas Gas states further that Texas Gas would construct, own, operate and maintain a 2-inch meter station on Texas Gas' main line system approximately four miles northwest of Benton in Marshall County, Kentucky.

Service to this new delivery point, it is said, would be accomplished within Benton's existing contract quantities and without detriment to Texas Gas' other customers.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Corp.

[Docket No. CP94–816–000]

Take notice that on September 30, 1994, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP94–816–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon approximately .1 of a mile of the 3-inch lateral and the Estech Drying Plant Meter Station, under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Eastern Transmission Corp.

[Docket No. CP94–818–000]

Take notice that on September 29, 1994, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77056–5310, filed in Docket No. CP94–818–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct a new delivery point in Westmoreland County, Pennsylvania, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern will construct the new point for delivery of 75 Dekatherms per day of natural gas to Three Rivers Pipeline (Three Rivers), an intrastate pipeline. Three Rivers requested Texas Eastern to construct the delivery point between Texas Eastern and Three Rivers. It will consist of an 8-inch tap and appurtenant piping on Texas Eastern's 36-inch Line No. 29 at mile post 31.67. Three Rivers will install a triple 6-inch meter station including 100 feet of 8-inch connecting pipeline between the proposed Texas Eastern tap to Three Rivers' proposed meter station and Electronic Gas Measurement (EGM). Three Rivers will own the meter station and connecting pipe, while Texas Eastern will own, operate, and maintain the EGM, with ownership reverting to Three Rivers at service termination. Texas Eastern will install, own, operate and maintain the proposed 8-inch tap. Three Rivers will reimburse Texas Eastern 100% for cost and expenses estimated at $111,600. Interruptible transportation pursuant to Part 284, Subpart B of the Commission's regulations will be rendered by Texas Eastern for Three Rivers' system supply use.

Texas Eastern states the proposed delivery point will have no effect on its peak day or annual deliveries or pose any detriment or disadvantage to its other customers.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gas Transmission Corp.

[Docket No. CP94–820–000]

Take notice that on September 29, 1994, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed in Docket No. CP94–820–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate facilities for 13 new delivery points for existing firm transportation customers in Ohio and West Virginia, under Columbia's blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate the facilities for the delivery of gas to Columbia Gas of Ohio, Inc. (COH) and Mountaineer Gas Company (Mountaineer), Columbia's existing customers, in order for COH to serve one residential customer and for Mountaineer to serve 12 residential customers. Columbia states that each of the 13 delivery points would be used for the delivery of 1.5 dt equivalent of gas per day and 150 dt equivalent on an annual basis. It is asserted that these volumes would be within COH's and Mountaineer's existing peak day and annual entitlements from Columbia. Columbia estimates the cost of installing the facilities at $150 apiece. It is stated that the delivery points would be used for the delivery of gas transported on a firm basis under Columbia's Part 284 blanket certificate, issued in Docket No. CP86–240–000.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

7. NorAm Gas Transmission Co.

[Docket No. CP95–4–000]

Take notice that on October 4, 1994, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–4–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 to construct and operate certain facilities, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NGT proposes to convert an existing receipt point into a delivery point on NGT's Line OM–1 in Franklin County, Arkansas to deliver up to 5,000 MMBtu per day of gas, transported pursuant to § 284.223, to serve Sunbelt Oil Field Services (Sunbelt). NGT states that the subject facilities consist of a 6-inch tap, 6-inch meter run, two orifice meters, temperature recorder and dehydrator. NGT further states the facilities were originally constructed in 1990 under § 2.55(d) of the Commission's Regulations to receive gas from wells operated by Sunbelt. NGT asserts that it would be reimbursed for the estimated cost of construction which is $8,672.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Co.

[Docket No. CP95–6–000]

Take notice that on October 4, 1994, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301 filed in Docket No. CP95–6–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new deliver point in Hopkins County, Kentucky, to serve Western Kentucky Gas Company (Western), an existing customer, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that the new delivery point, to be known as the Buchanan Road delivery point, will be located on Texas Gas' Slaughters-Nortonville 10" pipeline in Hopkins County, Kentucky, at Milepost 7+4967, the site of an existing side valve. Texas Gas further states that no construction of new facilities will be required by Texas Gas since Texas Gas will be utilizing an existing side valve, located on existing right-of-way and Western will install, own, operate and maintain measurement and associated facilities.

Texas Gas advises that service to the new delivery point will be accomplished within Western's existing contract quantities as set forth in its Firm Transportation Agreement dated November 1, 1993 and its Firm No Notice Transportation Agreement dated November 1, 1993. Texas Gas also states that the natural gas delivered at the new delivery point will enable Western to render natural gas service to residential users in the Buchanan Road area.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25615 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–799–000, et al.]

Texas Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

October 7, 1994.

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corp.

[Docket No. CP94–799–000]

Take notice that on September 23, 1994, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP94–799–000 a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act for authorization to add a new delivery point to serve Mississippi Valley Gas Company (MVG) under the certificate issued in Docket No. CP82–407–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas states that the proposed delivery point will be located on Texas Gas' main line system near the DeSoto/Tunica County line in Mississippi. Texas Gas indicates that the new delivery point will enable MVG to provide natural gas service to new residential developments in DeSoto County, Mississippi. According to Texas Gas, the service to MVG through the proposed delivery point can be accomplished without detriment to Texas Gas' other customers.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. National Fuel Gas Supply Corp.

[Docket No. CP95–1–000]

Take notice that on October 4, 1994, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York, 14203, filed in Docket No. CP95–1–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery tap to National Fuel Gas Distribution Corporation (Distribution) under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National proposes to construct and operate a delivery tap to Distribution in Elk County, Pennsylvania at a cost of $10,000, to be reimbursed by Distribution. It is stated that 46,000 Mcf per year would be delivered at this point.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Eastern Transmission Corp.

[Docket No. CP95–2–000]

Take notice that on October 4, 1994, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–2–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a delivery point in Philadelphia County Pennsylvania under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and operate an 8-inch tap, a dual 8-inch meter run, and the electronic gas measurement equipment to be located on Texas Eastern's 14-inch line No. 1–A at approximately M.P. 11.8 in Philadelphia County, Pennsylvania. Texas Eastern states that the installation of the delivery point will have no effect on Texas Eastern's peak day or annual deliveries.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. NorAm Gas Transmission Co.

[Docket No. CP95–3–000]

Take notice that on October 4, 1994, NorAm Gas Transmission Company (NorAm), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–3–000 a request pursuant to §§ 157.205, 157.211, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, 157.212, and 157.216) for authorization to replace and relocate certain facilities on its Line KM–36 in Union Parish, Louisiana to better accommodate its existing delivery obligations to Arkla, under NorAm's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically NorAm proposes to abandon a 1-inch tap and 1-inch meter station and regulator on Line KM–36 in Union Parish, Louisiana. NorAm proposes to relocate and construct a 2-inch tap, 2-inch meter station and regulator to assure reliable regulation of gas and reduce pipeline operating pressure for service by Arkla to Arkla's Marion Townborder Station. NorAm states that it will continue to deliver approximately 29,000 MMBtu annually and 408 MMBtu per day on a peak day to Arkla. It is further stated that the proposed relocation of the existing delivery tap approximately 636 feet will make it more assessable.

NorAm estimates that the cost of the construction and relocation will be approximately $35,566.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. NorAm Gas Transmission Co.

[Docket No. CP95–5–000]

Take notice that on October 4, 1994, NorAm Gas Transmission Company (NGT), formerly Arkla Energy Resources Company, 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–5–000 a request pursuant to §§ 157.205, 157.216 and §§ 157.211, 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain facilities in Louisiana, and to construct and operate certain facilities in Louisiana, under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to: (1) abandon nine 1-inch domestic taps located on NGT's Lines S and ST–8 in Louisiana, originally installed to deliver gas to rural domestic customers served by ARKLA, a division of NorAm Energy Corp. ("ARKLA"); and, (2) to relocate one tap on Line S at ARKLA's request. The estimated cost to relocate the tap on Line S is $353, and NGT will be reimbursed by ARKLA.

Comment date: November 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

5. Questar Pipeline Co.

[Docket No. CP95–7–000]

Take notice that on October 5, 1994, Questar Pipeline Company (Questar), 79

South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP95–7–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act requesting authority to construct and operate new delivery point metering facilities, requesting an order for permission and approval to abandon by sale certain transmission and associated facilities and to abandon by removal certain metering facilities, and submitting a petition for a declaratory order finding that the facilities to be abandoned by sale will be exempt from Commission jurisdiction under Section 1(b) of the Natural Gas Act, all as more fully set forth in the application and petition which is on file with the Commission and open to public inspection.

Questar requests authority to undertake a number of adjustments and activities on its system which, collectively, will respond to operating changes on its system which have taken place in the past few years. The proposals give recognition to operating and functional realities on certain segments of the Questar system.

Specifically, Questar proposes to construct and operate a new city-gate delivery point (the Little Mountain Gate Station) within the confines of its existing Little Mountain Pressure Regulating Station. The facilities are to be comprised of 6 12-inch turbine meter runs, six 20-inch and 24-inch valves, 100 feet of 20-inch and 24-inch yard and station piping, and telecommunications and appurtenant facilities. The new gate station is designed so that current operation and delivery service to Questar's local distribution company affiliate, Mountain Fuel Supply Company (Mountain Fuel) is unchanged. Questar states that the proposed facilities will permit it to consolidate metering, custody-transfer and pressure-regulating functions presently provided at the Little Mountain Pressure Regulating Station and the Sunnyside Gas Station (Sunnyside). It is indicated that Sunnyside currently serves as one of Questar's city-gate custody-transfer points to Mountain Fuel which serves the Wasatch Front area of northern Utah. Questar asserts that the consolidation of metering, regulating, and operational control activities at Little Mountain will streamline operations on this segment of Questar's transmission system.

In conjunction with establishing the Little Mountain Station, Questar proposes to abandon by sale to Mountain Fuel (a) approximately 5.9 miles (31,175 feet) of its existing 24-inch transmission Main Line No. 2 and approximately 5.9 miles (31,275 feet) of its existing 20-inch transmission Main Line No. 14, (b) non-measurement-related facilities located at Sunnyside, (c) four intermediate delivery points located between Little Mountain and Sunnyside and (d) related piping, metering and regulating facilities. In addition, Questar proposes to abandon by removal, valves, metering, regulating and telemetry equipment, and appurtenant piping located at Sunnyside. Questar asserts that the abandonment by sale is appropriate because, due to rapidly increasing residential development in the Emigration Canyon (where the facilities to be abandoned are located), the subject facilities now function more like an extension of Mountain Fuel's distribution system than an Questar Pipeline's transmission system. Once Questar installs the Little Mountain Gate Station, the equipment proposed to be removed at Sunnyside will no longer be necessary.

To consummate and complete the contemplated transfer to Mountain Fuel, Questar requests a declaratory order finding that the facilities to be sold to and operated by Mountain Fuel, upon transfer and sale, will be local distribution facilities and operations exempt from the Commission's jurisdiction under Section 1(b) of the Natural Gas Act. Questar states that the vase majority of the subject facilities are now surrounded by residential housing and that the three delivery taps downstream of the Little Mountain station are required by Mountain Fuel to provide exclusively local distribution service to residential end-use customers. In addition, because of the residential expansion in the area, Questar has reduced pipeline operating pressures in the vicinity such that the referenced sections of Main Lines 2 and 14 should be viewed as performing a local distribution function.

Questar states that the total gross plant investment associated with the facilities proposed to be abandoned (both by sale and removal) is $1,735,822 with the book value being $1,025,157. The book value of the facilities to be transferred to Mountain Fuel is $864,069. The cost of the metering facilities proposed to be constructed in approximately $671,000, which would be financed from company funds on hand.

Questar does not propose to modify any level of transportation service provided to Mountain Fuel or any other customer. Nor does Questar propose any change in its authorized rates.

Comment date: October 28, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed

for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25614 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC95–1–000]

Central Maine Power Company and Fairfield Energy Venture, L.P.; Notice of Filing

October 11, 1994.

Take notice that on October 7, 1994, Central Maine Power Company ("CMP") and Fairfield Energy Venture, L.P. ("FEV") jointly tendered for filing an application for approval of the acquisition and sale of a certain described step-up transformer and related books and records ("Public Utility Facilities") pursuant to a Purchase, Sale and Termination Agreement between CMP and FEV related to the acquisition by CMP and sale by FEV of all of FEV's right, title and interest in the 32 megawatt (net) biomass electric generating plant located in the Town of Fort Fairfield, Maine.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 21, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25573 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2487—New York]

Hydro-Power Inc; Notice Soliciting Applications

October 11, 1994.

On August 21, 1989, Hydro-Power Inc., the existing licensee for the Hoosic Falls Hydroelectric Project No. 2487, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by Section 4 of the Electric Consumers Protection Act of 1986, Public Law 99–495. The original license for Project No. 2487 was issued effective May 1, 1965, and expired December 31, 1993. The project is currently operating under an order requiring continued project operation issued December 27, 1993.

The project is located on the Hoosic River in Rensselaer County, New York. The principal project works consist of: (a) A 30-foot-high, 220-foot-long concrete dam with a spillway section topped by flashboards; (b) a reservoir of about 16.3 acres; (c) a 74-foot-wide, 900-foot-long canal; (d) a powerhouse with an installed capacity of 1,050 Kw; (e) a transmission line connection; and (f) appurtenant facilities.

Pursuant to § 16.20 of the Commission's regulations, the deadline for filing an application for subsequent license and any competing license applications was December 31, 1991. The deadline for filing was extended at the licensee's request to September 23, 1993. No applications for license for this project were filed. Therefore, pursuant to § 16.25 of the Commission's regulations, the Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to § 16.19 of the Commission's regulations, the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at 1502 N. 17th Avenue, Phoenix, Arizona 85007.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except § 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25574 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–9–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

October 11, 1994.

Take notice that on October 5, 1994, NorAm Gas Transmission Company (NGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP95–009–000 a request pursuant to §§ 157.205, 157.216, 157.211 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216, 157.211 and 157.212) for authorization to abandon certain facilities in Arkansas and Louisiana, and to construct and operate certain facilities in Arkansas and Louisiana under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to abandon thirty (30) 1-inch to 3-inch rural taps located on NGT's Line LT–2 in Columbia County, Arkansas and Claiborne Parish, Louisiana and to relocate nine (9) active taps from Line LT–2 to an existing parallel line, Line LT–5. NGT estimates the cost to relocate the taps from Line LT–2 to Line LT–5 to be approximately $15,300.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25575 Filed 10–14–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5090–8]

New Hampshire: Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination to Fully Approve the Adequacy of the State of New Hampshire's Municipal Solid Waste

Permitting Program, Public Hearing and Public Comment Period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. 6945(c)(1)(B), requires states to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs), which may receive hazardous household waste or small quantity generator hazardous waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA Section 4005(c)(1)(C), 42 U.S.C. 6945(c)(1)(C), requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribe permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibilities provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that, regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria shall apply to all permitted and unpermitted MSWLF facilities.

The State of New Hampshire has applied for a determination of adequacy under Section 4005(c)(1)(C) of RCRA, 42 U.S.C. 6945(c)(1)(C). EPA Region I has reviewed New Hampshire's MSWLF permit program adequacy application and has made a tentative determination that all portions of New Hampshire's MSWLF permit program are adequate to assure compliance with the revised MSWLF Criteria. New Hampshire's application for program adequacy determination is available for public review and comment at the places listed in the **ADDRESSES** section below during regular office hours.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF permit program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of persons express interest in participating in a hearing by writing to the Region I Solid Waste Program or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing, in Concord, New Hampshire, on the date given below in the **DATES** section. The Region will notify all persons who submit comments on this notice if it appears that there is sufficient public interest to warrant a hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "CONTACTS" section below.

DATES: All comments on New Hampshire's application for a determination of adequacy must be received by the close of business on November 16, 1994. If there is sufficient interest, a public hearing will be held on December 2, 1994, at 10:00 a.m., in New Hampshire. The State will participate in the public hearing, if held by EPA on this subject.

ADDRESSES: Written comments should be sent to Mr. John F. Hackler, Chief, Solid Waste and Geographic Information Section, mail code HER–CAN6, EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203–2211. The public hearing will be held at the offices of the New Hampshire Department of Environmental Services, Health and Human Services Building, 6 Hazen Drive, Concord, NH. Copies of New Hampshire's application for adequacy determination are available at the following addresses for inspection and copying: during the hours of 8:00 a.m. to 4:00 p.m., New Hampshire Department of Environmental Services, Waste Management Division, Health and Human Resources Building, 6 Hazen Drive, Concord, NH, 03301, Attn: Ms. Ariel Parent, telephone (603) 271–2900; during the hours of 8:00 a.m. to 5:00 p.m., U.S. EPA Region I, 90 Canal Street, Boston, MA 02203, Attn: Fred Friedman, telephone (617) 573–9687.

FOR FURTHER INFORMATION CONTACT: EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203–2211, Attn: Mr. Aaron R. Gilbert, mail code HER–CAN6, telephone (617) 223–5530.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires states to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under 40 CFR part 258. Subtitle D also requires in Section 4005(c)(1)(C), 42 U.S.C. 6945(c)(1)(C), that EPA determine the adequacy of state municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

The EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for states or tribes to develop "adequate" programs for permits or other forms of prior approval and conditions (for example, license to operate) to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval and conditions to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement, as required in Section 7004(b) of RCRA, 42 U.S.C. 6974(b). Finally, the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the STIR. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of New Hampshire

On July 7, 1993, EPA Region I received New Hampshire's final MSWLF Permit Program application for adequacy determination. Region I

reviewed the final application, submitted comments to New Hampshire, and requested additional information about state program implementation. New Hampshire addressed EPA's comments, provided the requested additional information, and submitted a revised final application for adequacy determination on August 30, 1994. Region I has reviewed New Hampshire's revised application and has tentatively determined that all portions of New Hampshire's MSWLF program meet all the requirements necessary to qualify for full program approval and ensures compliance with the revised Federal Criteria.

The public may submit written comments on EPA's tentative determination until November 16, 1994. Copies of New Hampshire's application are available for inspection and copying at the location indicated in the ADDRESSES section of this notice.

The State of New Hampshire's *Solid Waste Rules* reflect the dynamic nature of solid waste management by establishing minimum standards to protect human health and the environment as well as performance-based standards. These requirements are in keeping with the Federal Criteria for municipal solid waste disposal in that they specify a standard to be achieved and then allow flexibility to achieve that standard in innovative ways.

To ensure full compliance with the Federal Criteria, New Hampshire has revised its current MSWLF permitting requirements by development of the *Guidance Document for the State Permitting of Municipal Solid Waste Landfills Regulated Under Federal Rules (40 CFR Part 258) in New Hampshire.* This guidance document has incorporated those requirements from the federal criteria not found in the State's existing MSWLF program and are applicable to all existing MSWLFs and to all MSWLF permit applications. New Hampshire will implement its MSWLF permit program through enforceable permit conditions. These new requirements occur in the following areas:

1. The adoption of the following definitions as required by the revised Federal Criteria, 40 CFR 258.2: active life, active portion, director, household waste, industrial solid waste, owner, saturated zone, sludge, solid waste, state, state director, and waste management unit boundary.

2. Compliance with the new location restrictions of 40 CFR 258.10, 258.11. 258.12, 258.13, 258.14, 258.15, and 258.16, which pertain to airport safety, floodplains, wetlands, fault areas, seismic impact zones, unstable areas and closure of existing MSWLF units.

3. Compliance with the new operating criteria of 40 CFR 288.20, 258.21, 258.23, 258.24, 258.28, 258.29, which pertain to excluding the receipt of hazardous waste, cover material requirements, explosive gases control, air criteria, liquid restrictions, and record keeping requirements.

4. Compliance with the design criteria of 40 CFR 258.40.

5. Compliance with the ground-water monitoring and corrective action requirements of 40 CFR 258.53, 258.54, 258.55, 258.56, 258.57, and 258.58, which pertain to groundwater sampling and analysis requirements, detection monitoring, assessment monitoring, assessment of corrective measures, selection of remedy, and implementation of the corrective action program.

6. Compliance with the closure and post-closure criteria of 258.60 and 258.61.

7. Compliance with the financial assurance criteria of 40 CFR 258.70, 258.71, 258.72, 258.73, and 258.74, which pertain to applicability and effective date, financial assurance for closure, financial assurance for post-closure care, financial assurance for corrective action, and allowable mechanisms.

New Hampshire's Department of Environmental Services requires all existing MSWLFs to have either an existing permit or a temporary permit, both of which require compliance with the Federal Criteria in 40 CFR Part 258 pursuant to state laws and regulations, found at New Hampshire Revised Statutes Annotated Chapter 149–M:11 and New Hampshire Code of Administrative Rules Env-Wm 308.03. The State of New Hampshire is not asserting jurisdiction over Indian land recognized by the United States government for the purpose of this notice. Tribes recognized by the United States government are also required to comply with the terms and conditions found at 40 CFR Part 258.

The State of New Hampshire is committed to implementing its MSWLF program in accordance with the principles of environmental justice. The State has expressed this commitment in the narrative portion of its application.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for New Hampshire's program. EPA will make a final decision on approval of the State of New Hampshire's program and will give notice of the final determination in the **Federal Register**. The notice shall include a summary of the reasons for the final determination and a response to all significant comments.

Section 4005(a) of RCRA, 42 U.S.C. 6945(a), provides that citizens may use the citizen suit provisions of Section 7002 of RCRA, 42 USC 6972, to enforce the Federal Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See, 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of Section 4005 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6946.

Dated: September 30, 1994.

John P. DeVillars,

Regional Administrator.

[FR Doc. 94–25466 Filed 10–14–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5091–1]

Proposed Administrative Cost Recovery Agreement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the ENRX Site and the Buffalo Warehousing Site, Buffalo, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of

1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA") Region II announces a proposed settlement pursuant to section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), relating to the ENRX Site and the Buffalo Warehousing Site (the "Sites") in Buffalo, Erie County, New York. The Sites are not on the National Priorities List established pursuant to section 105(a) of CERCLA. This notice is being published to inform the public of the proposed settlement and of the opportunity to comment.

The settlement, memorialized in an Administrative Cost Recovery Agreement ("Agreement"), is being entered into by EPA and 91 parties (the "Respondents"). Under the Agreement, the Respondents shall pay EPA the sum of $1,006,000.00, plus interest, in reimbursement of the past response costs incurred by EPA with respect to the Sites.

DATES: EPA will accept written comments relating to the proposed settlement until November 16, 1994.

ADDRESSES: Comments should be sent to: Chief, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, N.Y. 10278, Attention: ENRX Site Attorney. For a copy of the Agreement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Dan Drazan, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, New York, 10278, telephone: (212) 264–5345.

Dated: September 30, 1994.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 94–25627 Filed 10–14–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5091–3]

Proposed Administrative DeMinimis Settlement Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the Frontier Chemical Superfund Site, Niagara Falls, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA"), Region II, announces a proposed administrative *de minimus* settlement pursuant to section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Frontier Chemical Superfund Site ("Site"). The Site is located in Niagara Falls, New York and is not on the National Priorities List established under section 105(a) of CERCLA. This notice is being published to inform the public of the proposed settlement and of the opportunity to comment.

The settlement, memorialized in an Administrative Order on Consent ("Order") is being entered into by EPA and approximately 230 *de minimis* parties (the "Respondents"). Under the Order, the Respondents are each required to pay EPA their respective volumetric percentage (as identified on a Volumetric Ranking prepared by EPA) of: (1) The projected cost of a removal action addressing tank wastes at the Site; (2) the response costs which have been incurred by EPA with respect to the Site through June 1, 1994 and which are are not already being reimbursed under a 1993 settlement; and (3) EPA's projected costs of overseeing the cleanup of the tank wastes. The combined payment amounts of the 230 Respondents under the Order total approximately $984,000.

DATES: EPA will accept written comments relating to the proposed settlement until November 16, 1994.

ADDRESSES: Comments should be sent to: Chief, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, N.Y. 10278, Attention: Frontier Chemical Site Attorney. For a copy of the Agreement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Elena T. Kissel, Assistant Regional Counsel, New York/Caribbean Suprefund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, New York, 10278, Telephone: (212) 264–4877.

Dated: September 30, 1994.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 94–25629 Filed 10–14–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5091–2]

Proposed Administrative Settlement; South Jordan Evaporation Ponds, Kennecott South Site, Salt Lake County, UT

AGENCY: Environmental Protection Agency (US EPA).

ACTION: Proposed administrative settlement.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed administrative settlement under section 122(h) concerning the South Jordan Evaporation Ponds operable unit of the Kennecott South Site in Salt Lake County, Utah. The proposed administrative settlement requires Kennecott Utah Copper Corp., a potentially responsible party at the site, to pay all response costs incurred by the US EPA in overseeing the cleanup of the South Jordan Evaporation Ponds from the date the site specific identification number was first assigned to the site through close-out of the Order.

DATES: Comments must be submitted by November 16, 1994.

ADDRESSES: Comments should be addressed to Maureen O'Reilly, (8HWM–ER), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, and should refer to the South Jordan Evaporation Ponds, Salt Lake County, Utah.

FOR FURTHER INFORMATION CONTACT: Karen S. Kellen, Office of Regional Counsel, at (303) 392–6201.

Jack W. McGraw,

Acting Regional Administrator, Environmental Protection Agency, Region VIII.

[FR Doc. 94–25628 Filed 10–14–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B.Hair, Federal

Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0600
Title: Implementation of Section 309(j) of the Communications Act, Competitive Bidding, Second Report and Order and Second Memorandum Opinion and Order—PP Docket No. 93–253.
Form Nos.: FCC Forms 175, 175–S
Expiration Date: 05/31/97
Estimated Annual Burden: 100,925 total hours; .25–20 hours per response; 13,400 respondents.
Description: In the Second Memorandum Opinion and Order in PP Docket No. 93–253, the Commission modified and supplemented several of its generic rules governing the auctioning of all licenses subject to competitive bidding. For example, the Commission will permit applicants to participate in auctions where the applicant certifies that a request for a waiver or declaratory ruling concerning the requirements of Section 310 is pending. The Commission modified its collusion rules to permit bidders who have not filed Form 175 applications for any of the same licenses to engage in discussions and enter into bidding consortia or joint bidding arrangements during the course of the auction. The Commission established detailed standard affiliation rules for determining all size-based eligibility requirements. The affiliation requirements are intended to prevent entities that do not meet the size standards from receiving benefits targeted to smaller entities. To ensure that only legitimate designated entities are the beneficiaries of special provisions, the Commission imposed stricter eligibility requirements on these entities. The Commission requires that designated entities to substantiate their eligibility by describing how they satisfy the requirements for eligibility.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 94–25541 Filed 10–14–94; 8:45 am]
BILLING CODE 6712–01–F

[DA 94–1093]

Cuban Democracy Act

AGENCY: Federal Communications Commission.
ACTION: Notice.

SUMMARY: The Commission has authorized IDB WorldCom Services, Inc. to provide direct packet switched data service between the United States and Cuba in accordance with the provisions of the Cuban Democracy Act. This authorization will allow IDB to help meet the large demand for direct telecommunications services between the United States and Cuba. Under the guidelines established by the Department of State, IDB is required to submit reports indicating the numbers of circuits activated by facility, on or before June 30 and December 31 of each year, and on the one-year anniversary of this notification in the **Federal Register**.

EFFECTIVE DATE: October 17, 1994.

FOR FURTHER INFORMATION CONTACT: Kerry E. Murray, Attorney, Common Carrier Bureau, (202) 418–1494.

SUPPLEMENTARY INFORMATION:

In the Matter of: IDB WORLDCOM SERVICES, INC.—Application for authority to lease and operate facilities for the provision of direct packet switched data service between the United States and Cuba.

[File No. I–T–C–94–440]

Order and Authorization

Adopted: September 29, 1994.

By the Chief, International Facilities Division: 1. The Commission has under consideration the above-captioned application filed by IDB WorldCom Service, Inc. ("IDB") requesting authority pursuant to Section 214 of the Communications Act of 1934, as amended, to establish channels of communication between the United States and Cuba for the provision of direct packet switched data service. The application was placed on the Commission's public notice and no comments were received.

2. IDB proposes to provide international packet switched data service between the United States and Cuba via the INTELSAT satellite located at 325° E.L., using appropriately licensed existing earth station facilities. Specifically, IDB requests authority to lease from Comsat and operate one 4 kHz analog SCPC circuit between an authorized earth station located in the United States and the theoretical midpoint of the INTELSAT AOR satellite connecting with matching facilities provided by INTERTEL S.A. ("INTERTEL") of Cuba. IDB proposes to acquire and operate facilities to connect its operating center in New York, New York, to the U.S. earth station. IDB states that it has already entered into an operating agreement with INTERTEL for the establishment of direct packet data service between the United States and Cuba. Under the terms of its agreement, INTERTEL and IDB have agreed to a 50/50 split of a $5.50 per kilosegment and $5.50 per hour accounting rate for packet data traffic. IDB states this rate is consistent with U.S. policy guidelines.[1] IDB states that it will initiate service within one year.

3. IDB states that the public interest would be served by a grant of its application because it will result in an expanded choice of carriers offering telecommunications service between the United States and Cuba. IDB states such competition will spur innovation and efficiency, lead to lower-priced, higher-quality service, and stimulate customer demand and usage. Further, IDB states that the grant of its application will result in the expansion of direct telecommunications service between the United States and Cuba.

4. In a letter dated July 22, 1993, the U.S. Department of State informed the Commission of the Executive Branch's general policy guidelines for implementation of the telecommunications provisions of the Cuban Democracy Act, which provides that "telecommunication services between the United States and Cuba shall be permitted."[2] Among the policy guidelines are the following requirements: (1) the proposals must have the potential to be operational within a year; (2) settlements must not be more favorable to Cuba than the current 50/50 split of the $1.20 per minute accounting rate; (3) proposals must be limited to equipment and services necessary to deliver a signal to Cuba; (4) proposals must utilize modes of communications already in place between the U.S. and Cuba; and (5) carriers shall report the number of circuits activated by facility on June 30 and December 31 of each year and on the one-year anniversary of the

[1] In *Sprint Communications, L.P.*, I–T–C–94–238, DA94–636, 9 FCC Rcd 2827 (1994), it was noted that packet data traffic is measured based on a unit known as a "kilosegment." On a typical dial packet data transmission, two kilosegments are transferred per hour. Likewise, on a typical dedicated packet data transmission, four kilosegments are transferred per hour. Therefore, for a typical dial packet data transmission, the total accounting rate would be approximately $16.50 per hour (27.5¢ per minute), including $5.50 for the hour of time and $11.00 for the two kilosegments of transmitted packet data. For a typical dedicated packet data transmission, the total accounting rate would be approximately $27.50 per hour (46¢ per minute), including $5.50 for the hour of time and $22.00 for the four kilosegments of transmitted packet data.

[2] Letter dated July 22, 1993, from Richard C. Beaird, Acting U.S. Coordinator and Director, Bureau of International Communications and Information Policy, U.S. Department of State to Acting FCC Chairman James H. Quello.

notification by the FCC in the Federal Register.

5. The Commission recently granted the application of Sprint Communications Company, L.P. to provide packet data services between the United States and Cuba pursuant to the same accounting rate as proposed by IDB.[3] In particular, the Commission found that Sprint's application was consistent with the Executive Branch's general guidelines set forth in the Department of State's letter dated July 22, 1993.

6. Upon consideration of IDB's application, we find that a grant of its application will serve the public interest subject to the conditions set forth below. IDB's application is consistent with the Executive Branch's general guidelines set forth in the Department of State's letter. IDB states that it will initiate service within one year, and expects to initiate service shortly after all requisite regulatory approvals have been obtained. IDB's proposed use of INTELSAT facilities and appropriately licensed existing earth station facilities satisfies the requirements that facilities already be in existence and be limited to equipment and services necessary to deliver a signal to Cuba.

7. With respect to IDB's proposed 50/50 split of a $5.50 per kilosegment and $5.50 per hour accounting rate for packet data traffic between the United States and Cuba, the Department of State indicated in a follow-up letter dated May 23, 1994 that it has no objection to our approval so long as the proposed rate does not exceed the 50/50 split of the $1.20 accounting rate required under the guidelines.[4] We find that the proposed accounting rate is within the Department of State's guidelines because both the approximately 27.5¢ per minute accounting rate for a typical dial packet data transmission, and the approximately 46¢ per minute accounting rate for a typical dedicated packet data transmission [5] is well below the $1.20 per minute accounting rate approved for voice services.

8. Accordingly, *It is Ordered* that application File No. I–T–C–94–440 *Is Granted* and IDB WorldCom Services, Inc. is authorized to:

a. lease from Comsat and operate one 4 kHz analog SCPS circuit between an appropriately licensed existing international earth station located in the United States and the INTELSAT AOR satellite located at 325° E.L. connecting with matching facilities furnished by IDB's correspondent in Cuba, INTERTEL S.A. (the international division of EMTELCUBA);

b. acquire and operate necessary earth segment facilities located in the United States;

c. acquire and operate necessary connecting facilities between its operating center in New York and a U.S. earth station; and

d. use the above facilities for the provision of direct packet switched data service between the United States and Cuba subject to the conditions set forth herein.

9. *It is further ordered* That the service authorized herein must be implemented within one year from the date of release of this order.

10. *It is further ordered* That IDB and INTERTEL shall split 50/50 the $5.50 per hour and $5.50 per kilosegment accounting rate for this service.

11. *It is further ordered* That the applicant shall submit reports on or before June 30, and December 31 of each year, and on the one-year anniversary of the notification of the grant of this application in the Federal Register indicating the numbers of circuits activated by facility.

12. *It is further ordered* That this authorization is subject to the applicant's obtaining all necessary licenses and authorizations from the Departments of Treasury and Commerce.

13. *It is further ordered* That this order is subject to revocation without a hearing in the event the Department of State or the Federal Communications Commission determines that the continuation of communications between the United States and Cuba is no longer in the national interest.

14. *It is further ordered* That, pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and Part 61 of the Commission's Rules, 47 CFR Part 61, IDB shall file and have in effect a tariff for the service authorized in this order before offering services to the public.

15. *It is further ordered* That IDB shall file copies of any operating agreements entered into by itself or its parent/affiliates with its correspondents within 30 days of their execution, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules, 47 CFR 43.51.

16. *It is further ordered* That IDB shall file annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 CFR 43.61.

17. *It is further ordered* That IDB shall file a Section 214 application for any additional circuits it proposes to establish between the United States and Cuba.

18. Acceptance of this authorization shall be deemed acceptance of the conditions set forth herein.

19. This authorization is issued pursuant to Section 0.291 of the Commission's Rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of public notice of this order (*see* Section 1.4(b)(2)).

Federal Communications Commission.

George S. Li,

Chief, International Facilities Division, Common Carrier Bureau.

[FR Doc. 94–25543 Filed 10–14–94; 8:45 am]

BILLING CODE 6712–01–M

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[3] *See Sprint Communications Company, L.P.*, 9 FCC Rcd 2827 (1994).

[4] Letter dated May 23, 1994, from Richard C. Beaird, Acting U.S. Coordinator and Director, Bureau of International Communications and Information Policy, U.S. Department of State to Acting FCC Chairman James H. Quello.

[5] *See supra* note 1.

[Gen Docket No. 88–476; DA 94–1057]

Private Land Mobile Radio Services; New York Metropolitan Area Public Safety Plan Amendment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Deputy Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division released this Order amending the Public Safety Radio Plan for the New York Metropolitan Area (Region 8). As a result of accepting the amendment for the Plan for Region 8, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: October 4, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: September 26, 1994.
Released: October 4, 1994.

By the Acting Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division:

1. The Private Radio Bureau and the Office of Engineering and Technology, acting under delegated authority, accepted the New York Metropolitan Area (Region 8) Public Safety Plan (Plan) on May 12, 1989, 4 FCC Rcd 4457 (1989).

2. By letter dated May 27, 1994, the Region proposed to amend its Plan. The

proposed amendment would revise the current channel allotments. The Commission placed the letter on Public Notice for comments due on August 4, 1994, 9 FCC Rcd 3284 (1994), and received no comments.

3. We have reviewed the proposed amendment to the Region 8 Plan and, having received no comments to the contrary, conclude it furthers the interests of the eligible entities within the Region.

4. Accordingly, It Is Ordered, That the Public Safety Radio Plan for the New York Metropolitan Area (Region 8) Is Amended, as set forth in the Region's letter of May 27, 1994. This Amendment is effective immediately.

Federal Communications Commission.

Rosalind K. Allen,

Acting Chief, Land Mobile and Microwave Division.

[FR Doc. 94–25593 Filed 10–14–94; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL RESERVE SYSTEM

FBOP Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 11, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. FBOP Corporation, Oak Park, Illinois; to acquire 100 percent of the voting shares of Citizens National Bank, Teague, Texas.

2. Ogden Bancshares, Inc., Ogden, Iowa; to become a bank holding company by acquiring 54 percent of the voting shares of City State Bank, Ogden, Iowa.

Board of Governors of the Federal Reserve System, October 11, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–25598 Filed 10–14–94; 8:45 am]

BILLING CODE 6210–01–F

Mediapolis Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 11, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Mediapolis Bancorporation, Mediapolis, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Mediapolis Savings Bank, Mediapolis, Iowa.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CNB Bancshares, Inc., Evansville, Indiana; to acquire 100 percent of the voting shares of Harrisburg Bancshares, Inc., Harrisburg, Illinois, and thereby indirectly acquire The Harrisburg National Bank, Harrisburg, Illinois.

2. HBI Acquisition Company, Evansville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Harrisburg Bancshares, Inc., Harrisburg, Illinois, and thereby indirectly acquire The Harrisburg National Bank, Harrisburg, Illinois.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Blumberg Bank, L.P., Seguin, Texas; to become a bank holding company by acquiring 48 percent of the voting shares of Seguin State Bank & Trust Company, Seguin, Texas.

Board of Governors of the Federal Reserve System, October 11, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–25599 Filed 10–14–94; 8:45 am]

BILLING CODE 6210–01–F

Bill Pittman, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 11, 1994.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Bill and Ginger Pittman, Spearman, Texas, jointly to acquire 0.10 percent, for a total of 10.05 percent, of the voting shares of Spearman Bancshares, Inc., Spearman, Texas, and thereby indirectly acquire First National Bank, Spearman, Texas.

Board of Governors of the Federal Reserve System, October 11, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–25600 Filed 10–14–94; 8:45 am]

BILLING CODE 6210–01–F

Southern National Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 11, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Southern National Corporation, Lumberton, North Carolina; to merge with BB&T Financial Corporation, Wilson, North Carolina and thereby indirectly acquire Branch Banking and Trust Company, Wilson, North Carolina; Branch Banking and Trust Company of South Carolina, Greenville, South Carolina; The Lexington State Bank, Lexington, South Carolina; and The Community Bank of South Carolina, Varnville, South Carolina. In connection with this application BB&T Financial Corporation, Wilson, North Carolina will acquire an option for 19.9 percent of the voting shares of Southern National Corporation, Lumberton, North Carolina, and Southern National Corporation will acquire and option for 19.9 percent of BB&T Financial Corporation, Wilson, North Carolina.

In connection with this application, Applicant also has applied to acquire Southeast Switch, Inc. (Company), Maitland, Florida, and thereby engage in providing data processing and transmission services to federally insured depository institutions who participate in Company's neutral shares electronic funds transfer (EFT) network and providing related services, including the administration and promotion of the network; providing data processing transmission and related services to other EFT networks; and providing bank management consulting advice to depository institutions, pursuant to § 225.25(b)(7) and (11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 11, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–25601 Filed 10–14–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94C–0338]

Gist-brocades NV; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Gist-brocades NV has filed a petition proposing that the color additive regulations be amended to provide for the safe use of the inactivated and dried yeast *Phaffia rhodozyma* to provide a pigment source for salmonids.

DATES: Written comments on the petitioner's environmental assessment by November 16, 1994.

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

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(d)(1) (21 U.S.C. 379e(d)(1))), notice is given that a color additive petition (CAP 4C0243) has been filed by Gist-brocades NV, Wateringseweg, 2611 XT Delft, The Netherlands. The petition proposes that part 73 (21 CFR part 73) of the color additive regulations be amended to provide for the safe use of the inactivated and dried yeast *Phaffia rhodozyma* to provide a pigment source for salmonids.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 16, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the

evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 4, 1994.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–25637 Filed 10–14–94; 8:45 am]

BILLING CODE 4160–01–F

Food and Drug Administration

[Docket No. 94G–0313]

Hercules Food and Functional Products Co.; Filing of Petition to Change Process Description and Food Grade Specifications for Pectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hercules Food and Functional Products Co. has filed a petition (GRASP 4G0411) proposing to change the current process description and food grade specifications for pectins.

DATES: Written comments by December 16, 1994.

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

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3106.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Hercules Food and Functional Products Co., 1313 North Market St., Wilmington, DE 19899–8740, has filed a petition (GRASP 4G0411) proposing to amend the current process description and food grade specifications for pectin under 21 CFR 184.1588(a) and (b). The present regulation incorporates by reference, Food Chemicals Codex, 3d Ed., 1981, p. 215. The petition requests a revision of the description of pectins to harmonize it with the current Codex Alimentarius and a Council Directive of the European Union. The petition also requests a revision of specifications consistent with the Food Chemicals Codex, 3d Supp. to the 3d Ed. A similar proposal has been submitted to the Food Chemicals Codex for consideration. The description and the specification would affirm the GRAS status of three additional types of pectin, namely, amidated high-methoxyl pectins; very low methoxyl pectins; and calcium salt of pectins. The petition has been placed on display at the Dockets Management Branch (address above) and it may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Any petition that meets the requirements outlined in §§ 170.30 (21 CFR 170.30) and 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before December 16, 1994, review the petition and/or file comments with the Dockets Management Branch (address above). Two copies of any comment should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the proposed description and specification should be adopted for food grade pectin. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 4, 1994.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–25635 Filed 10–14–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94N–0287]

Glaxo, Inc., et al.; Withdrawal of Approval of 13 Abbreviated Antibiotic Applications and 2 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of August 4, 1994 (59 FR 39773). The document withdrew approval of 13 abbreviated antibiotic applications (AADA's) and 2 abbreviated new drug applications (ANDA's). The document was published with a typographical error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 94–18971 appearing on page 39773 in the **Federal Register** of Thursday, August 4, 1994, the following correction is made:

On page 39773, in the first column of the table, the application no. "AADA 629–053" is corrected to read "AADA 62–053".

Dated: October 5, 1994.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 94–25636 Filed 10–14–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute on Aging; Notice of Meeting of the Advisory Panel on Alzheimer's Disease

Pursuant to Public Law 92–463, notice is hereby given of the Advisory Panel on Alzheimer's Disease meeting to be held at the National Institutes of Health, Building 31, Conference Rooms 7 and 8, Bethesda, Maryland, from 9 a.m. to 5 p.m. on December 13 (Conference Room 7) and again on December 14 (Conference Room 8) from 9 a.m. to 1 p.m.

The meeting will be open to the public for discussion of draft material for the Panel's annual report and other business before the Panel. Attendance by the public will be limited to space available.

Ms. June McCann, Committee Management Officer for the National Institute on Aging, National Institutes of Health, Gateway Building, 7201

Wisconsin Avenue, Suite 2C218, Bethesda, Maryland 20892 (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. McCann at (301) 496–9322, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93–866, Aging Research, National Institutes of Health)

Dated: October 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–25535 Filed 10–14–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Deafness and Other Communication Disorders Programs Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Deafness and Other Communication Disorders Programs Advisory Committee on October 28, 1994. The meeting will take place from 8:30 to 5:00 p.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which will be open to the public, is being held for discussion of the Extramural Research programs and a report from the Director, NIDCD. Attendance by the public will be limited to space available.

Further information concerning the Committee meeting may be obtained from Dr. Ralph F. Naunton, Executive Secretary, DCD Programs Advisory Committee, National Institute on Deafness and Other Communication Disorders, Executive Plaza South, Room 400C, National Institutes of Health, Bethesda, Maryland 20892, 301–496–1804. A summary of the meeting and a roster of the members may also be obtained from his office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Naunton two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: October 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–25536 Filed 10–14–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Diabetes Advisory Board, National Institute of Diabetes and Digestive and Kidney Diseases, October 17, 18, 1994, Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland, which was published in the **Federal Register** on September 1, 1994 (59 FR 45296).

The meeting was canceled due to the expiration of the Charter.

Dated: October 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–25534 Filed 10–14–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

The meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: NHLBI SEP on Blood Diseases.

Dates of Meeting: November 3–4, 1994.

Time of Meeting: 9:00 a.m.

Place of Meeting: National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

Agenda: To discuss the status of the Blood Diseases and Resources needs and to approve concept for program development.

Contact Person: Dr. Fann Harding, 7550 Wisconsin Avenue, Room 5A08, Bethesda, Maryland 20892, (301) 496–1817.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: October 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–25533 Filed 10–14–94; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Addition of a new routine use to seven systems of records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (11)), we are issuing public notice of our intent to establish a new routine use applicable to seven of SSA's systems of records. The proposed routine use would provide for disclosure from the systems of records to law enforcement agencies and private security contractors when information is needed to respond to, investigate, or prevent activities that jeopardize the security and safety of SSA customers, employees or workplaces or that otherwise disrupt the operation of SSA facilities. Information would also be disclosed to assist in the prosecution of persons charged with violating Federal or local law in connection with such activities.

We invite public comment on this publication.

DATES: We filed a report of a new routine use with the Chairman, Committee on Government Operations of the House of Representatives, and the Chairman, Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on September 20, 1994. The routine use will become effective, as proposed, without further notice October 31, 1994, unless we receive comments on or before that date that would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Garreis, Social Insurance Specialist, Standards and Compliance Branch, Division of Technical Documents and Privacy, Office of Regulations, Office of Policy, Social Security Administration, 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410–965–5533.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Routine Use

A. Background

We propose to add a routine use to the systems of records listed below. The proposed routine use is necessary to ensure the security of SSA workplaces and the safety of SSA customers and employees.

Occasionally SSA offices find it necessary to disclose information to law enforcement agencies and private security contractors in order to ensure the security of the workplace and the safety of those in it. These incidents usually involve: Physical violence; the use, attempted use or display of a weapon; malicious damage to SSA or employee property; credible threats of physical violence against an employee, a customer or the premises; verbal abuse against an employee or customer; and other activities that disrupt the operations of SSA offices.

B. Disclosures to Law Enforcement Agencies and Private Security Contractors

Federal, State, and local law enforcement agencies and private security contractors have responsibility for preventing, handling, monitoring, and investigating incidents that affect the safety and security of SSA customers, employees and workplaces or otherwise disrupt SSA operations. Prosecution of persons involved in these activities for violation of Federal or local laws may also be appropriate. SSA managers of most SSA leased facilities have to rely primarily on local law enforcement authorities and private security contractors to meet the protective security needs of customers, employees and workplaces.

In order to protect individuals and premises and deal with incidents, law enforcement and private security personnel need information from SSA systems of records. Although the Privacy Act permits disclosure without consent to protect the health or safety of individuals (5 U.S.C. 552a(b)(8)), the conditions which must be met under this provision sometimes preclude its application in follow-up investigations when there is no immediate emergency. Also, the requirement under this exception that the individual must be notified of the disclosure could have potentially dangerous consequences for SSA employees. They could be subjected to retaliation. The Privacy Act (5 U.S.C. 552a(b)(7)) also permits disclosure without consent to a law enforcement agency for a valid law enforcement activity when an appropriate official of that agency submits a written request. However, this provision does not permit disclosure without such a request and would not apply when SSA has a need to disclose on its own initiative.

To enable SSA to disclose information in compliance with the Privacy Act in all situations that affect the safety and security of SSA customers, employees or workplaces, we are proposing the following routine use to permit disclosure:

To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or

(b) To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

We are not republishing in their entirety the notices of the systems of records to which we are adding the new routine use statement because of the large number of those systems of records and the costs of republishing the individual notices of each one. Instead, we are republishing only the identification number and the name of each system, and the volume, page number, and date of the **Federal Register** issue in which the systems notice was last published, either in a composite listing of systems of records or as an individual system notice.

The following systems notices were last published at 52 FR 12084, April 14, 1987, in a composite listing which added a routine use:

09–60–0005—Hearing Office File, HHS/SSA/OHA;
09–60–0066—Claims Development Record, HHS/SSA/RO; and
09–60–0078—Public Inquiry Correspondence File, HHS/SSA/RO.

The following systems notices were published at 58 FR 35025, June 30, 1993, as individual notices:

09–60–0058—Master Files of Social Security Number Holders, HHS/SSA/OSR;
09–60–0089—Claims Folders System, HHS/SSA/OP;
09–60–0090—Master Beneficiary Record, HHS/SSA/OSR; and
09–60–0103—Supplemental Security Income Record, HHS/SSA/OSR.

II. Compatibility of Proposed Routine Use

We are proposing the changes discussed above in accordance with the Privacy Act (5 U.S.C. 552a(a)(7), (b)(3), and (e)(11)) and our disclosure regulation (20 CFR part 401).

The Privacy Act permits us to disclose information about individuals without their consents for a routine use, i.e., where the information will be used for a purpose that is compatible with the purpose for which we collected the information. As here pertinent, our regulation implementing that statute states that a disclosure serves such a compatible purpose when the disclosure is necessary to carry out SSA's programs. We believe that the disclosures contemplated under this routine use meet the compatibility requirement for routine uses under the Privacy Act and the regulation. In order for SSA to carry out its programs, it must ensure that its places of business are safe and secure for both customers and employees, that premises and property are safe from theft and damages, that employees can perform their duties without fear of intimidation or injury, and that SSA can prevent and appropriately deal with disruptions in the operation of its facilities. In so far as disclosure to law enforcement agencies and private security contractors will help to accomplish these objectives, the disclosures are an integral part of our program administration responsibilities. Thus, the proposed disclosures meet the compatibility criterion discussed above because they are necessary for program administration.

III. Effect of the Proposal on Individual Rights

Although disclosures will be made to law enforcement and/or private security personnel, SSA will follow all statutory and regulatory requirements for disclosure. Therefore, we do not anticipate that the disclosures will have any unwarranted effect on the privacy or other rights of individuals.

IV. Other Changes

No changes, other than the new routine use, are being made to the notices of systems of records in this publication.

Dated: September 20, 1994.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 94–25546 Filed 10–14–94; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. N–94–3823; FR–3800–N–01]

Task Force on Lead-Based Paint Hazard Reduction and Financing; Open Meeting

AGENCY: Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of open meetings.

SUMMARY: The Task Force was established by the Secretary pursuant to section 1015 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The charter of the Task Force was approved July 14, 1993.

The Task Force includes individuals representing the Department of Housing and Urban Development; the Farmers Home Administration; the Department of Veterans Affairs; the Federal Home Loan Mortgage Corporation; the Federal National Mortgage Association; the Environmental Protection Agency; employee organizations in the building and construction trades industry; landlords; tenants; primary lending institutions; private mortgage insurers; single-family and multifamily real estate interests; nonprofit housing developers; property liability insurers; public housing agencies; low-income housing advocacy organizations; national, State, and local lead-poisoning prevention advocates and experts; and community-based organizations located in areas with substantial rental housing. These members were selected on the basis of personal experience and expert knowledge. Three committees were established by the Task Force members; (1) Finance Committee; (2) Liability Committee; and (3) Implementation Committee. The members of these committees are members of the Task Force.

DATES: A public hearing for the Task Force on Lead-Based Paint Hazard Reduction & Financing, is being held on November 14, 1994 from 1:00 to 6:00 p.m., at the James R. Thompson-Auditorium (this is the old State of Illinois Building) 100 West Randolph Street, Chicago, Illinois. Two panel presentations will be presented at 1:00 p.m.—one panel will consist of low-income tenants and the other panel will consist of small property owners. Members of the general public will begin speaking at 3:30 p.m. If you are interested in speaking at the public hearing, please contact Ruth Wright on (202) 755–1805. There will be full Task Force meetings on November 15–16, 1994 at the Radisson Plaza Ambassador West Hotel, 1300 North State Parkway, Chicago, IL 60610, telephone number (800) 333–3333, or (312) 787–3700 (9:00 to 5:00).

ADDRESSES: Members of the public are invited to provide written material to: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW, Room B–133, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ruth Wright, Task Force Staff Director, Department of Housing and Urban Development, 451 7th Street SW, Room B–133, Washington, DC 20410; telephone (202) 755–1805. The TTD numbers are (202) 708–9300 or 1–800–877–8339. (Except for the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The last Task Force Committee meetings were held on September 8 & 9 in Washington, DC. An announcement will be published in the **Federal Register** at least 15 days before each meeting. All meetings will be open to the public, with limited seating available on a first-come, first-served basis.

The mandate of the Task Force is to make recommendations to the Secretary of HUD and the Administrator of the Environmental Protection Agency (EPA) concerning:

(1) Incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) Developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) Adjusting appraisal guidelines to address lead safety;

(4) Incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) Revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) Reducing the current uncertainties of liability related to lead-based paint in rental housing, by clarifying standards of care for landlords and lenders and by exploring the "safe harbor" concept;

(7) Increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) Evaluating the utility and appropriateness of requiring both risk assessments or inspections and notification to prospective lessees of rental housing.

Authority: 42 U.S.C. 4852a, 4852b:

Dated: October 11, 1994.

Ronald J. Morony,

Acting Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

[FR Doc. 94–25592 Filed 10–14–94; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–015–1060–04]

Intent To Gather Wild Horses From the Owyhee Herd Management Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management Boise District proposes to gather approximately 100 wild horses from the Hardtrigger and Black Mountain Herd Areas located within the Owyhee Herd Management Area. A public meeting will be held on Tuesday, October 25, 1994, at 7 p.m. in the conference room of the Bureau of Land Management Boise District Office located at 3948 Development Avenue, Boise, Idaho to discuss the proposed gathering. The proposed wild horse gathering is planned to begin on or about November 7, 1994. A helicopter will be used to gather the horses.

FOR FURTHER INFORMATION CONTACT: Fred Schley, Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Telephone (208) 384–3300.

Rodger Schmitt,

Acting District Manager.

[FR Doc. 94–25570 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–66–M

[MT–920–04–1310–01–P; MTM 76350]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease MTM 76305, Daniels County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 18⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: October 6, 1994.

Karen L. Carroll,

Chief, Fluids Adjudication Section.

[FR Doc. 94–25571 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–DN–M

[NM–017–4210–05–RGRP]

Modification of Realty Action—Sale of Public Lands in Bernalillo County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Notice of Realty Action for Sale of Lands in Bernalillo County, New Mexico, published on pages 42280–42282 of the **Federal Register**, Volume 59, No. 158, on August 17, 1994, is hereby modified to delete Competitive Parcel No. 7, NMNM 88815, because of a potential conflict with the adjoining land owner. All other terms and conditions of the previous Notice remain unchanged. Questions regarding this sale may be directed to Joe Jaramillo, Rio Puerco Resource Area Office, (505) 761–8779.

Dated: October 7, 1994.

Sue E. Richardson,

Associate District Manager.

[FR Doc. 94–25569 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–FB–M

[CO–018–95–1050–00]

Road Closure

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of road closure.

SUMMARY: Pursuant to 43 CFR 8364.1 the BLM will close the following public lands in the Kremmling Resource Area, Jackson County, Colorado:

Township 7 North, Range 79 West, 6th P.M.
Section 13: NE¼ and E½NW¼.

Certain roads on public land in the above described area will be closed to all vehicle access except designated Bureau of Land Management Administrative Use and permitted uses. The purpose of this closure is to protect fragile cultural resources from destruction by motor vehicles. This road closure will remain in effect until the off-road vehicle issue is addressed for Owl Ridge.

DATES: Immediately, until further notice.

ADDRESSES: Maps showing the location of and information pertaining to the above closures and restrictions will be available at the BLM Kremmling Resource Area Office in Kremmling, Colorado.

FOR FURTHER INFORMATION CONTACT: For further information, contact Linda M. Gross, Area Manager, BLM Kremmling Resource Area, PO Box 68, Kremmling, Colorado 80459, (303) 724–3437.

Dated: October 5, 1994.

Linda M. Gross,

Area Manager.

[FR Doc. 94–25457 Filed 10–14–94; 8:45 am]

BILLING CODE 1050–JB–P

[NV–942–05–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION: 1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on July 26, 1994:

The plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines of T. 42 N., R. 65 E., Mount Diablo Meridian, Nevada, under Group No. 681, was accepted July 6, 1994.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on August 30, 1994:

The plat representing the dependent resurvey of the south boundary of T. 22 N., R. 32 E., and the plat representing the dependent resurvey of the Fourth Standard Parallel North, through a portion of Range 31 East and the west and north boundaries of T. 21 N., R. 31 E., Mount Diablo Meridian, Nevada, under Group No. 728, were accepted August 23, 1994.

This survey was executed to meet certain administrative needs of the U.S. Fish and Wildlife Service.

3. The Plats of Survey of the following described lands were officially filed at the Nevada State Office, Reno, Nevada on September 8, 1994:

The plat representing the dependent resurvey of the Fifth Standard Parallel South, through a porton of Range 62 East, a portion of the east boundary, a portion of the subdivisional lines and the subdivision of sections 1, 2, 11 and 12, T. 21 S., R. 62 E., Mount Diablo Meridian, Nevada, under Group 708, was accepted August 30, 1994.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The plat representing the dependent resurvey of the east boundary, a portion of the north boundary, a portion of the subdivisional lines and the subdivision of sections 11, 12, 14 and 35, T. 20 S., R. 62 E., Mount Diablo Meridian, Nevada, under Group 716, was accepted August 31, 1994.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The supplemental plat showing a subdivision of original lot 3, sec. 18, T. 42 N., R. 60 E., Mount Diablo Meridian, Nevada, was accepted on August 31, 1994.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: October 5, 1994.

John S. Parrish,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 94–25568 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–HC–P

Fish and Wildlife Service

Availability of Revised Recovery Action Plan for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability of the revised Recovery Implementation Program Recovery Action Plan (RIPRAP) dated September 8, 1994. The RIPRAP identifies specific actions and timeframes currently believed to be necessary to recover the endangered fish in the most expeditious manner possible in the Upper Colorado River Basin (Upper Basin). The REPRAP serves as a measure of accomplishment so that the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (Recovery Program) can continue to serve as the reasonable and prudent alternative to avoid the likelihood of jeopardy to the continued existence of the endangered fish for projects undergoing section 7 consultations. A final rule designating critical habitat for the endangered fish was published on March 24, 1994 (59 FR 13374). The Recovery Program also is intended to serve as the reasonable and prudent alternative to avoid the likely destruction or adverse modification of critical habitat. Modifications were made to the RIPRAP so that the Recovery Program can fulfill that intent. A notice of availability of the draft modifications to the RIPRAP was published in 59 FR 31620, June 20, 1994. Public comment was considered and the modifications were finalized by the Service in coordination with the Recovery Program's Management and Implementation committees.

ADDRESSES: Persons wishing to receive a copy of the revised RIPRAP may contact the Assistant Regional Director—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225; FAX 303/236–0027.

FOR FURTHER INFORMATION CONTACT: Mr. John Hamill (see **ADDRESSES** above), at telephone 303/236–2985.

SUPPLEMENTARY INFORMATION:

Background

Four native fish species that inhabit the Colorado River Basin are federally listed as endangered: the Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), bonytail (*Gila elegans*), and razorback sucker (*Xyrauchen texanus*). Each was once abundant in the Upper Basin; however, they have declined in numbers and now are threatened with extinction from their natural habitat due to direct loss of habitat, changes in water flow and temperature regimes, blockage of migration routes, and interactions with introduced (nonnative) fish species.

In 1988, the Governors of Colorado, Utah, and Wyoming, the Secretary of the Interior, and the Administrator of the Western Area Power Administration entered into a cooperative agreement to implement the Recovery Program. The purpose of the Recovery Program is to recover the four endangered fish in the Upper Basin while providing for future water development to proceed in compliance with the Endangered Species Act, Interstate Compacts, and State law. The Upper Basin is defined as the Colorado River drainage upstream of Lake Powell, with the exception of the San Juan River drainage.

The Recovery Program includes procedures for section 7 consultations. In 1992, the Service raised an issue with Recovery Program participants as to whether progress toward recovery of the fish has been sufficient to allow for continued issuance of favorable biological opinions. Discussions among Recovery Program participants resulted in an agreement, finalized on October 15, 1993, that clarified how section 7 consultations would be conducted in the Upper Basin on depletion impacts related to new projects and impacts associated with historic projects (existing projects requiring a new Federal action), with the exception of the discharge by historic projects of pollutants such as trace elements, heavy metals, and pesticides. The RIPRAP was developed by Recovery Program participants in support of the section 7 agreement using the best information available and the recovery goals established for the four endangered fish species. It identifies specific actions and timeframes currently believed to be required to recover the endangered fish in the most expeditious manner possible in the Upper Basin. The RIPRAP serves as a measure of accomplishment so that the Recovery Program can continue to serve as the reasonable and prudent alternative to avoid the likelihood of jeopardy to the continued existence of the endangered fish for projects undergoing section 7 consultation. The Recovery Program also is intended to serve as the reasonable and prudent alternative which avoids the likely destruction or adverse modification of critical habitat. The modifications in the revised RIPRAP are designed to fulfill such intent. The modifications were not extensive and are primarily intended to provide further definition to actions already identified in the RIPRAP and to provide increased certainty that the Recovery Program can continue to serve as the reasonable and prudent alternative for projects subject to section 7 consultation.

National Environmental Policy Act (NEPA)

A programmatic Environmental Assessment was completed on the Recovery Program in November 1987. The Environmental Assessment provides an analysis and assessment of the impacts to the environment from Recovery Program implementation. The October 1993 Agreement and RIPRAP, including the modifications, identify in more detail how the Recovery Program will be carried out. Appropriate site-specific NEPA compliance will be conducted on specific actions identified in the RIPRAP.

Author

This notice was prepared by John Hamill, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 6, 1994.

Terry T. Terrell,

Acting Regional Director.

[FR Doc. 94–25580 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Indian Memorial Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Indian Memorial Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATES AND TIMES: November 14, 1994; 8:00 a.m.–5:00 p.m.

ADDRESSES: Sheraton Denver West, 360 Union Blvd., Lakewood, CO 80228.

The agenda of this meeting will be: Review minutes of last meeting, Discuss followup actions from first meeting, Introduction/opening remarks by John E. Cook, Travel/Administrivia, Formation of Committees for: Media/Public Relations, Fund Raising, Design Criteria/Competition, and Participation by Interested Public.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Little Bighorn Battlefield National Monument, P.O.Box 39, Crow Agency, MT 59022. The telephone number is (406)638–2621. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the Superintendent of Little Bighorn Battlefield National Monument.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under Title II of the Act of December 10, 1991, for the purpose of advising the Secretary on the site selection for a memorial in honor and recognition of the Indians who fought to preserve their land and culture at the Battle of Little Bighorn, on the conduct of a national design competition for the memorial, and "* * * to ensure that the memorial designed and constructed as provided in section 203 shall be appropriate to the monument, its resources and landscape, sensitive to the history being portrayed and artistically commendable."

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Booher, Indian Affairs Coordinator, Rocky Mountain Regional Office, 12795 W. Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, (303)969–2511.

Dated: October 4, 1994.

Peggy A. Lipson,

Chief, Office of Ecosystem and Strategic Management, Rocky Mountain Region.

[FR Doc. 94–25620 Filed 10–14–94; 8:45 am]

BILLING CODE 4310–70–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

General Records Schedule 20, Electronic Records; Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of proposed records schedule; request for comments.

SUMMARY: As required by statute (44 U.S.C. 3303a(d)), the National Archives and Records Administration (NARA) issues General Records Schedules (GRS) to provide disposal authority for temporary records common to several or all agencies. NARA has revised GRS 20, Electronic Records, by adding an item on electronic mail records, by moving selected items from GRS 23 to GRS 20 to consolidate coverage of electronic records, and by updating several other items. General Records Schedules, as well as schedules submitted by agencies, are subject to public review and comment before approval, as required by 44 USC 3303a(a). Normally, NARA publishes notices of Federal agency requests for records disposition authority (records schedules) that contain an identifying number and a brief description of the records to be covered by the schedule. This allows interested parties to request copies of pending schedules and submit comments. Because of the widespread interest in electronic records, however, NARA has chosen in this instance to publish the full text of the schedule with revisions indicated.

DATES: Comments must be received in writing on or before December 1, 1994.

ADDRESSES: Comments should be sent to the Records Appraisal and Disposition Division (NIR), National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to (301) 713–6852 or (301) 713–6850. Comments also may be sent to the following Internet address: jhasting@nara.gov.

FOR FURTHER INFORMATION CONTACT: James J. Hastings, Director, Records Appraisal and Disposition Division, (301) 713–7110, extension 229.

SUPPLEMENTARY INFORMATION: For the convenience of reviewers, the text of GRS 20 is provided in full in this notice, including items that are unchanged from the current GRS 20 (items 2, 6, 7, and 9–12) or contain only editorial changes (items 1, 4, and 5). The title of item 1 was amended to remove the reference to the locations where the files described by item 1 are maintained, and the wording of the disposition instructions for items 4 and 5 was edited for consistency with other items.

Comments will be accepted only on the items in GRS 20 that have been substantively changed or added, specifically, items 3, 8, 13, 14, and 15. Also for the convenience of reviewers, the text of GRS 23 is being published although no comments are being solicited.

Introduction. Because the distinction between central data processing applications and end-user computer applications have become blurred by the proliferation of local and wide area networks, and end-user applications have become more sophisticated since they were added to GRS 23 in 1987, end-user applications have been moved to GRS 20. The introduction to GRS 20 is revised to reflect its expanded coverage and explain some of the changes made to the schedule, as follows:

General Records Schedule 20

Electronic Records

This schedule provides disposal authorization for certain electronic records and specified hard-copy (paper) or microform records that are integrally related to the electronic records.

This schedule applies to disposable electronic records created or received by Federal agencies including those managed for agencies by contractors. It covers records created by computer operators, programmers, analysts, systems administrators, and all personnel with access to a computer. Disposition authority is provided for certain master files, including some that are components of database management systems, certain files created from master files for specific purposes, and certain disposable electronic records produced by end users in office automation applications (e.g., word processing files, electronic mail messages, calendars, spreadsheets, and databases developed on personal computers in support of administrative functions). These disposition authorities apply to the categories of electronic records described in GRS 20, regardless of the type of computer used to create or store these records. GRS 20 does not cover all electronic records. Electronic records not covered by GRS 20 may not be destroyed unless authorized by a Standard Form 115 that has been approved by the National Archives and Records Administration (NARA).

Security backup copies of files as defined in item 8 of this schedule do not equate to system backups. System backups are copies on off-line storage media of software and data stored on direct access storage devices in a computer system. They are used to recreate a system or its data in case of unintentional loss from on-line storage. System backups are merely mirror images of storage disks on which data and documents may be scattered randomly as they are on the disks themselves. Therefore, system backups are not records and are suitable for safeguarding against the loss of records only when the record copy is maintained elsewhere.

Electronic mail records described in item 14 are documents which: (1) Are created or received on an electronic mail system, and (2) meet the definition of Federal records. E-mail records must include the identity of the sender and the recipient(s), and the date, and any

other data deemed by the agency to be necessary to understand the contents or to interpret the structure of the e-mail record. Receipt data that the agency determines is needed for complete and accurate documentation must also be maintained with e-mail messages that are Federal records.

The records covered by several items in this schedule are authorized for erasure or deletion when no longer needed. NARA could not establish a more specific retention that would be appropriate in all applications. Each agency should, when appropriate, determine a more specific disposition instruction, such as "Delete after X update cycles" or "Delete when X years old," for inclusion in its records disposition directives or manual. NARA approval is not needed to set retention periods for records in the GRS that are authorized for destruction when no longer needed.

Items 2a and 1a (in part) of this schedule apply to hard-copy or microform records used in conjunction with electronic files. Item 1 also covers printouts produced to test, use, and maintain master files. Items 10 and 11 of this schedule should be applied to special purpose programs and documentation for disposable electronic records whatever the medium in which such documentation and programs exist.

This schedule has been revised to include electronically-generated records previously covered in General Records Schedule 23, Records Common to Most Offices. The original numbering of the items in GRS 20 has been preserved. The items moved from GRS 23 have been added at the end, except the item covering administrative databases that has been incorporated into item 3. Electronic versions of records authorized for disposal in the remaining items in GRS 23, as for other records in the GRS, may be deleted under the provisions of item 3 of GRS 20.

See also 36 CFR part 1234 for NARA regulations on electronic records management.

Item 1. The title of item 1 was modified to remove the reference to central ADP facilities, ADP management, and ADP support operations and clarify its applicability. The disposition of subitem 1c was modified to remove the phrase "in accordance with sound business practice and agency standard operating procedures" for consistency with other GRS items. The item was otherwise unchanged and now reads as follows:

Item 1. *Files/Records Relating to the Creation, Use, and Maintenance of Computer Systems, Applications, or Electronic Records.*

a. Electronic files or records created solely to test system performance, as well as hard-copy printouts and related documentation for the electronic files/records.

Delete/destroy when no longer needed.

b. Electronic files or records used to create or update a master file, including, but not limited to, work files, valid transaction files, and intermediate input/output records.

Delete after information has been transferred to the master file and verified.

c. Electronic files and hard-copy printouts created to monitor system usage, including, but not limited to, log-in files, password files, audit trail files, system usage files, and cost-back files used to assess charges for system use.

Delete/destroy when no longer needed.

Item 2. Item 2 is unchanged from the current GRS which reads as follows:

Item 2. *Input/Source Records.*

a. Non-electronic documents or forms designed and used solely to create, update, or modify the records in an electronic medium and not required for audit or legal purposes (such as need for signatures) and not previously scheduled for permanent retention in a NARA-approved agency records schedule.

Destroy after the information has been converted to an electronic medium and verified, or when no longer needed to support the reconstruction of, or serve as the backup to, the master file, whichever is later.

b. Electronic records, except as noted in item 2c, entered into the system during an update process, and not required for audit and legal purposes.

Delete when data have been entered into the master file or database and verified, or when no longer required to support reconstruction of, or serve as backup to, a master file or database, whichever is later.

c. Electronic records received from another agency and used as input/ source records by the receiving agency, EXCLUDING records produced by another agency under the terms of an interagency agreement, or records created by another agency in response to the specific information needs of the receiving agency.

Delete when data have been entered into the master file or database and verified, or when no longer needed to support reconstruction of, or serve as backup to, the master file or database, whichever is later.

Item 3. Item 3 was modified to incorporate item 3 from GRS 23 covering administrative databases. The title was changed from Master Files to Electronic Versions of Records Scheduled for Disposal. This will clarify the coverage of the item. To further clarify the coverage to users of the GRS, the following note will be added to each page of the GRS indexes: General Records Schedule 20, item 3, applies to electronic versions of records scheduled for disposal under items in GRS 1–16, 18, 22, and 23, except for GRS 1, items 21, 22, 25f; GRS 12, item 3; and GRS 18, item 5. The new item reads as follows:

Item 3. *Electronic Versions of Records Scheduled for Disposal.*

a. Electronic versions of records that are scheduled for disposal under one or more items in GRS 1–16, 18, 22, or 23; EXCLUDING those that replace or duplicate the following GRS items: GRS 1, items 21, 22, 25f; GRS 12, item 3; and GRS 18, item 5.

Delete after the expiration of the retention period authorized by the GRS or when no longer needed, whichever is later.

b. Electronic records that support administrative housekeeping functions when the records are derived from or replace hard copy records authorized by NARA for destruction in an agency specific records schedule.

(1) When hard copy records are retained to meet recordkeeping requirements.

Delete information in the database when no longer needed.

(2) When the electronic record replaces hard copy records.

Delete after the expiration of the retention period authorized for the hard copy file, or when no longer needed, whichever is later.

(3) Hard copy printouts created for short-term administrative purposes.

Destroy when no longer needed.

Item 4. The disposition instruction for item 4 was modified to remove the concluding phrase "for current business" for consistency with other GRS items. The item is otherwise unchanged from the current GRS and now reads as follows:

Item 4. *Data Files Consisting of Summarized Information.*

Records that contain summarized or aggregated information created by combining data elements or individual observations from a single master file or database that is disposable under a GRS item or is authorized for deletion by a disposition job approved by NARA after January 1, 1988, EXCLUDING data files that are:

(a) Created as disclosure-free files to allow public access to the data; or

(b) Created from a master file or database that is unscheduled, or that was scheduled as permanent but no longer exists or can no longer be accessed; which may not be destroyed before securing NARA approval.

Delete when no longer needed.

Item 5. The disposition instruction for item 5 was modified to remove the concluding phrase "for current business" for consistency with other GRS items, and a cross-reference to item 12 was added. The item is otherwise unchanged from the current GRS and now reads as follows:

Item 5. *Records Consisting of Extracted Information.*

Electronic files consisting solely of records extracted from a single master file or database that is disposable under GRS 20 or approved for deletion by a NARA-approved disposition schedule, EXCLUDING extracts that are:

(a) Produced as disclosure-free files to allow public access to the data; or

(b) Produced from a master file or database that is unscheduled, or that was scheduled as

permanent but no longer exists or can no longer be accessed; or

(c) Produced by an extraction process which changes the informational content of the source master file or database; which may not be destroyed before securing NARA approval. For print and technical reformat files see items 6 and 7 of this schedule respectively.

Delete when no longer needed.

Note: See item 12 of this schedule for other extracted data.

Item 6. Item 6 is unchanged from the current GRS which reads as follows:

Item 6. *Print File.*

Electronic file extracted from a master file or database without changing it and used solely to produce hard-copy publications and/or printouts of tabulations, ledgers, registers, and reports.

Delete when no longer needed.

Item 7. The description of Item 7 was modified to broaden its coverage from master files and databases to all types of applications. The item now reads as follows:

Item 7. *Technical Reformat File.*

Electronic file consisting of data copied from a copy of a file or a portion of a file made for the specific purpose of information interchange and written with varying technical specifications, EXCLUDING files created for transfer to the National Archives.

Delete when no longer needed.

Item 8. The description for item 8 was corrected by changing "physical format" to "logical format" and an explanatory note was added. The item now reads as follows:

Item 8. *Security Backups of Files.*

Electronic copy consisting of data identical in logical format to the master copy of an electronic record or file and retained in case the master file or database is damaged or inadvertently erased.

a. File identical to records scheduled for transfer to the National Archives.

Delete when the identical records have been transferred to the National Archives and successfully copied, or when replaced by a subsequent security backup file.

b. File identical to records authorized for disposal in a NARA-approved records schedule.

Delete when the identical records have been deleted, or when replaced by a subsequent security backup file.

[Note: This item does not cover system backups. See introduction to this schedule for further information on system backups.]

Item 9. Item 9 is unchanged from the current GRS which reads as follows:

Item 9. *Finding Aids (or Indexes).*

Electronic indexes, lists, registers, and other finding aids used only to provide access to records authorized for destruction by the GRS or a NARA-approved SF 115, EXCLUDING records containing abstracts or other information that can be used as an information source apart from the related records.

Delete with related records or when no longer needed, whichever is later.

Item 10. Item 10 is unchanged from the current GRS which reads as follows:

Item 10. *Special Purpose Programs.*

Application software necessary solely to use or maintain a master file or database authorized for disposal in a GRS item or a NARA-approved records schedule, EXCLUDING special purpose software necessary to use or maintain any unscheduled master file or database or any master file or database scheduled for transfer to the National Archives.

Delete when related master file or database has been deleted.

Item 11. Item 11 is unchanged from the current GRS which reads as follows:

Item 11. *Documentation.*

a. Data systems specifications, file specifications, codebooks, record layouts, user guides, output specifications, and final reports (regardless of medium) relating to a master file or database that has been authorized for destruction by the GRS or a NARA-approved disposition schedule.

Destroy or delete when superseded or obsolete, or upon authorized deletion of the related master file or database.

b. Computer center copies of records relating to system security, including records documenting periodic audits or review and recertification of sensitive applications, disaster and continuity plans, and risk analysis, as described in OMB Circular No. A–130. Destroy or delete when superseded or obsolete.

[Notes: (1) Documentation that relates to permanent or unscheduled master files and databases is not authorized for destruction by the GRS. (2) See item 1a of this schedule for documentation relating to system testing.]

Item 12. Item 12 is unchanged from the current GRS which reads as follows:

Item 12. *Downloaded and Copied Data.*

Derived data and data files that are copied, extracted, merged, and/or calculated from other data, when the original data is retained.

a. Derived data used for ad hoc or one-time inspection, analysis or review, if the derived data is not needed to support the results of the inspection, analysis or review.

Delete when no longer needed.

b. Derived data that provide user access in lieu of hard copy reports that are authorized for disposal.

Delete when no longer needed.

c. Metadata or reference data, such as format, range or domain specifications, which is transferred from a host computer or server to another computer for input, updating, or transaction processing operations:

Delete from the receiving system when the input operation is completed.

[Note: See item 5 of this schedule for other extracted data.]

Item 13. Item 13 was extracted from GRS 23, item 2, which covered both word processing documents and electronic messages. Item 13 covers only word processing documents; messages will be covered in new item 14. The coverage of the item has been expanded and clarified to include word processing documents that are copied to an electronic recordkeeping system. This item will authorize the disposal of documents on the word processing system if they are copied to paper or another electronic form for recordkeeping, or if they are already authorized for disposal by the GRS or a NARA-approved agency records schedule. The revised item reads as follows:

Item 13. *Word Processing Files.*

Documents such as letters, memoranda, reports, handbooks, directives, and manuals recorded on electronic media such as hard disks or floppy diskettes:

a. When copied to paper, microform, or an electronic records system for recordkeeping purposes.

Delete when no longer needed.

b. When maintained in electronic format only on the word processing system or separate diskette, providing the records have been authorized for destruction by the GRS or NARA-approved SF 115.

Delete after the expiration of the retention period authorized by the GRS or a NARA-approved SF 115.

Item 14. Item 14 was extracted from current GRS 23, item 2. Because electronic mail has become so widespread, a separate item for electronic mail messages is now needed. This item will authorize deletion of records on the electronic mail system only when they have been copied to paper, microform, or another electronic system for recordkeeping purposes, or when their retention period has expired as specified by a GRS or NARA-approved agency records schedule. The new item reads as follows:

Item 14. *Electronic mail records.*

Senders' and recipients' copies of messages, regardless of length or substance, that meet the definition of Federal records created using the electronic mail (e-mail) system and any attachments.

a. Records, including transmission data and any receipt data that may be required, that have been converted to paper or microform or copied to another electronic system for recordkeeping. Delete from the e-mail system when no longer needed.

b. Records maintained only on the e-mail system for recordkeeping, providing the records have been authorized for destruction by the GRS or a NARA-approved SF 115.

Delete from the e-mail system at the expiration of the retention period authorized by the GRS or NARA-approved SF 115.

[Note: See introduction for further information on e-mail records, including transmission and receipt data.]

Item 15. Item 15 was GRS 23, item 4. There are no changes in the text which reads:

Item 15. *Electronic Spreadsheets.*

Spreadsheets that are recorded on electronic media such as hard disks or floppy diskettes:

a. When used to produce hard copy that is maintained in organized files.

Delete when no longer needed to update or produce hard copy.

b. When maintained only in electronic form.

Delete after the expiration of the retention period authorized for the hard copy by the GRS or a NARA-approved SF 115. If the electronic version replaces hard copy records with differing retention periods and agency software does not readily permit selective deletion, delete after the longest retention period has expired.

As noted above, General Records Schedule 23, Records Common to Most Offices Within Agencies, has been modified by removal of items covering records created in electronic form which have been incorporated into GRS 20. GRS 23 will now read as follows:

General Records Schedule 23

Records Common to Most Offices Within Agencies

This schedule provides for the disposal of certain records common to most offices in Federal agencies. It covers administrative subject files; facilitative records such as suspense files, tracking and control records, calendars, and indexes; and transitory documents. This schedule does not apply to any materials that the agency has determined to be nonrecord or to materials such as calendars or work schedules claimed as personal.

Office Administrative Files described under item 1 are records retained by an originating office as its record of initiation of an action, request, or response to requests for information. This item may be applied only to separate administrative files containing such records as copies of documents submitted to other offices for action including budget feeder documents, purchase orders, training requests. Item 1 may not be applied to files that also contain program records, and it may not be applied by an office that receives and takes action on documents submitted by other offices.

Several items covering electronic records produced on stand-alone or networked personal computers (such as word processing files, administrative databases, and spreadsheets) that were previously in this schedule have been moved to General Records Schedule 20, Electronic Records. To preserve the previous numbering of the items in GRS 23, the item numbers that have been moved have been reserved. The disposition of records described in this schedule that are created in electronic form is governed by GRS 20, items 3, 13, 14, and 15.

Item 1. *Office Administrative Files.*

Records accumulated by individual offices that relate to the internal administration or housekeeping activities of the office rather than the functions for which the office exists. In general, these records relate to the office organization, staffing, procedures, and communications; the expenditure of funds, including budget records; day-to-day administration of office personnel including training and travel; supplies and office services and equipment requests and receipts; and the use of office space and utilities. They may also include copies of internal activity and workload reports (including work progress, statistical, and narrative reports prepared in the office and forwarded to higher levels) and other materials that do not serve as unique documentation of the programs of the office.

Destroy when 2 years old, or when no longer needed, whichever is sooner.

[**Note:** This schedule is not applicable to the record copies of organizational charts, functional statements, and related records that document the essential organization, staffing, and procedures of the office, which must be scheduled prior to disposition by submitting an SF 115 to NARA.]

Items 2–4. Reserved.

Item 5. *Schedules of Daily Activities.*

Calendars, appointment books, schedules, logs, diaries, and other records documenting meetings, appointments, telephone calls, trips, visits, and other activities by Federal employees while serving in an official capacity, EXCLUDING materials determined to be personal.

a. Records containing substantive information relating to official activities, the substance of which has not been incorporated into official files, EXCLUDING records relating to the official activities of high government officials (see note).

Destroy or delete when 2 years old.

[**Note:** High level officials include the heads of departments and independent agencies; their deputies and assistants; the heads of program offices and staff offices including assistant secretaries, administrators, and commissioners; directors of offices, bureaus, or equivalent; principal regional officials; staff assistants to those aforementioned officials, such as special assistants, confidential assistants, and administrative assistants; and career Federal employees, political appointees, and officers of the Armed Forces serving in equivalent or comparable positions. Unique substantive records relating to the activities of these individuals must be scheduled by submission of an SF 115 to NARA.

b. Records documenting routine activities containing no substantive information and records containing substantive information, the substance of which has been incorporated into organized files.

Destroy or delete when no longer needed.

[**Note:** GRS 20, item 3, authorizes deletion of electronic records described by subitems a and b of this item.]

Item 6. *Suspense Files.*

Documents arranged in chronological order as a reminder that an action is required on a given date or that a reply to action is expected and, if not received, should be traced on a given date.

a. A note or other reminder to take action. Destroy after action is taken.

b. The file copy or an extra copy of an outgoing communication, filed by the date on which a reply is expected.

Withdraw documents when reply is received. (1) If suspense copy is an extra copy, destroy immediately. (2) If suspense copy is the file copy, incorporate it into the official files.

Item 7. *Transitory Files.*

Documents of short-term interest which have no documentary or evidential value and normally need not be kept more than 90 days. Examples of transitory correspondence are shown below.

a. Routine requests for information or publications and copies of replies which require no administrative action, no policy decision, and no special compilation or research for reply.

b. Originating office copies of letters of transmittal that do not add any information to that contained in the transmitted material, and receiving office copy if filed separately from transmitted material.

c. Quasi-official notices including memoranda and other records that do not serve as the basis of official actions, such as notices of holidays or charity and welfare fund appeals, bond campaigns, and similar records.

Destroy when 3 months old, or when no longer needed, whichever is sooner.

Item 8. *Tracking and Control Records.*

Logs, registers, and other records used to control or document the status of correspondence, reports, or other records that are authorized for destruction by the GRS or a NARA-approved SF 115.

Destroy or delete when no longer needed.

Item 9. *Finding Aids (or Indexes).*

Indexes, lists, registers, and other finding aids used only to provide access to records authorized for destruction by the GRS or a NARA-approved SF 115, EXCLUDING records containing abstracts or other information that can be used as an information source apart from the related records.

Destroy or delete with the related records or sooner if no longer needed.

Dated: October 6, 1994.

Trudy Huskcamp Peterson,

Acting Archivist of the United States.

[FR Doc. 94–25560 Filed 10–14–94; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Draft Policy Statement on Agreement States Program: Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Statement of Policy: Extension of Comment Period.

SUMMARY: On August 5, 1994 (59 FR 40058), the Nuclear Regulatory Commission published for public comment a draft proposed policy statement on the Agreement States Program. The draft policy statement establishes Agreement State program principles, and describes the respective roles and responsibilities of the NRC

and the States in the administration of this program, which is authorized by Section 274 of the Atomic Energy Act of 1954, as amended. Agreement States are States which have assumed regulatory authority from NRC over the possession and use of certain radioactive materials. The draft document is an "umbrella" policy statement which will serve as broad guidance in delineating the NRC's and the State's respective responsibilities and expectations. The comment period for this draft policy statement expired on October 4, 1994. The NRC has been requested to extend the comment period and has decided to grant the request. Therefore, the comment period has been extended. The extended comment period now expires on December 19, 1994.

DATES: The comment period has been extended and now expires December 19, 1994. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received before this date.

ADDRESSES: Send written comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Maria Lopez-Otin, Federal Liaison, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2598.

Dated at Rockville, Maryland this 11th day of October 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–25586 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–M

Agreement State Regulatory Programs Adequacy To Protect Public Health and Safety and Compatibility With the NRC Regulatory Program Draft Statement of Policy: Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Statement of Policy: Extension of Comment Period.

SUMMARY: On July 21, 1994, (59 FR 37269), the Nuclear Regulatory Commission published for public comment a draft general statement of policy regarding the review of Agreement State radiation control programs. The comment period for this draft policy statement was originally to have expired on October 19, 1994. The NRC plans to hold a public meeting on the draft policy statement on November 15, 1994, which will also be announced in a **Federal Register** notice. In order to assure that the public meeting on the draft policy statement is held during the comment period and in order to assure that an adequate opportunity is provided for the public to comment on this important issue, the NRC has decided to extend the comment period. The extended comment period now expires on December 19, 1994.

DATES: The comment period has been extended an now expires December 19, 1994. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received before this date.

ADDRESSES: Send written comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2312.

Dated at Rockville, Maryland this 11th day of October 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–25587 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–M

Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co.; Peach Bottom Atomic Power Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company (the licensee), for operation of the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, located in York County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address the potential environmental issues related to the licensee's application to amend the Peach Bottom Atomic Power Station, Unit Nos. 2 and 3 operating licenses. The proposed action would increase the licensed thermal power level of the reactors from the current limit of 3293 megawatts thermal (MWt) to a revised limit of 3458 MWt. This request is in accordance with the generic boiling water reactor (BWR) power uprate program established by the General Electric Company (GE) and approved by the U.S. Nuclear Regulatory Commission (NRC) staff in a letter from W. Russell, NRC, to P. Marriotte, General Electric, dated September 30, 1991.

The proposed action involves NRC issuance of a license amendment to uprate the authorized power level by changing the Operating License, Appendices A ("Technical Specifications") and B ("Environmental Technical Specifications") to the Operating License. The proposed action is in accordance with the licensee's application for amendment dated June 23, 1993, as supplemented by letters dated April 5, May 2, June 6, June 8, June 29, July 6 (two letters), July 7, July 20, July 28 (two letters), September 16 and September 30, 1994.

The Need for the Proposed Action

The proposed action is needed to permit an increase in the licensed core thermal power from 3293 MWt to 3458 MWt and provide the licensee with the flexibility to increase the potential electrical output of PBAPS, Units 2 and 3, providing additional electrical power to the licensees' domestic and commercial service areas.

Environmental Impacts of the Proposed Action

The "Final Environmental Statement (FES) related to operation of Peach Bottom Atomic Power Station, Units 2 and 3" was issued in April 1973. The licensee submitted General Electric (GE) Topical Report, NEDC–32183P, "Power Rerate Safety Analysis Report for Peach Bottom 2 & 3," Class III, dated May 1993, as Attachment 3 to the June 23, 1993 submittal. NEDC–32183P contains the safety analysis prepared by GE to support this license change request and the implementation of power uprate at PBAPS Units 2 and 3. The analyses and evaluations supporting the proposed license changes were completed using the guidelines in GE Topical Report NEDC–31897P-A, "Generic Guidelines for General Electric Boiling Water Reactor Power Uprate," Class III, dated May 1992, and NEDC–31984P, "Generic Evaluations of General Electric Boiling Water Reactor Power Update," Class III, dated July 1991. The staff reviewed and

approved these Topical Reports in the September 30, 1991 letter described above and in a letter from W. Russell, NRC, to P. Marriotte, General Electric, dated July 31, 1992.

The licensee provided information regarding the non-radiological environmental effects of the proposed action in the June 23, application and supplemental information in the September 30, 1994 submittal. The licensee provided information regarding the radiological environmental effects of the proposed action in NEDC–3183P and supplemental information in the September 30, 1994 submittal. The staff has reviewed the potential radiological and non-radiological effects of the proposed action on the environment as described below.

Non-Radiological Environmental Assessment

Power uprate will not change the method of generating electricity nor the method of handling any influents from nor effluents to the environment. Therefore, no new or different types of environmental impacts are expected.

The staff reviewed the non-radiological impact of operation at uprated power levels on influents from and effluents to the Conowingo Pond. Peach Bottom has a once-through circulating water system and five mechanical draft cooling towers for dissipating heat from the main turbine condensers. The cooling towers reject heat from the circulating water prior to discharge back to the Conowingo Pond. The cooling towers are operated in accordance with the requirements of the facility's National Pollution Discharge Elimination System (NPDES) permit, Permit No. PA0009733. The NPDES permit includes a matrix which specifies the number of cooling towers that must be in operation as a function of total station thermal power production, circulating water pumps and average inlet water temperature.

By letters dated February 24 and March 31, 1994, the licensee provided information to the Pennsylvania Department of Environmental Resources (PA DER) regarding the impact of power uprate on cooling tower performance. In the February 24, 1994 letter, the licensee indicated that the uprated power levels would increase the temperature of the circulating water leaving the main condensers by approximately one degree Fahrenheit. Operation at uprated power will cause additional heat to be rejected to the circulating water through the main condensers. The additional heat rejection would occur as a result of operation at slightly higher condenser pressures and discharge of circulating water from the main condenser with slightly higher temperatures as described above. The licensee provided a revised cooling tower matrix to the PA DER which addressed cooling tower operation at uprated power levels. The licensee noted that the lowest 7-day moving river temperature average for which cooling tower operation is required dropped from 53°F to 51°F. In general, the effect of operation at uprated power would be to increase the duty cycle of the cooling towers. By letter dated September 27, 1994, the PA DER recommended extension of the thermal variance (Section 316(a) of The Federal Water Pollution Control Act Amendments of 1972, P.L. 92–500, as amended) for the Peach Bottom Atomic Power Station. The state concluded that an increase in the plant's rated power level will not change the relative abundance, distribution and species composition of fish in the Conowingo Pond provided the station is operated in accordance with the revised matrix. The PA DER indicated that the NPDES permit will be renewed in the near future to include the revised matrix.

The operating speed and characteristics of the circulating pumps will not be changed for power uprate. Thus, the volumetric flow rate and velocity of intake and outfall from the circulating water system would not be expected to change because of operation at uprated power levels. As stated above, the temperature of the water discharged from the condensers is expected to increase slightly; however, the licensee has determined that the increased heat load is within the capacity of the existing cooling towers. The operating matrix for the cooling towers was revised to maintain the temperature characteristics of the plant discharge plume equivalent to those of the existing plume. Because the flow rate, velocity and temperature of the plume are all not expected to change, no change to the overall thermal plume is expected.

The licensee does inject sodium hypochlorite into the circulating water system to retard growth of microorganisms with system components. The sodium hypochlorite injection rate is determined by the flow rate through the circulating water system, which will not change as a result of operation at uprated power levels. The licensee indicated the increased heat rejection rate from the cooling towers may lead to an increase in concentration of chemicals and contaminants in the cooling tower. However, the licensee is required by the NPDES permit to sample for residual chlorine in the outfall of the cooling towers on a daily basis and to maintain residual chlorine concentrations within the limits of the permit. The concentrations of residual chlorine are not expected to exceed the existing permit limits. Based on the expected minimal effect of uprated power operation on cooling tower chemical concentrations and the monitoring requirements of the NPDES permit, the staff concludes the impact of any potential increase in cooling tower chemical effluent concentration on the environment is not significant.

Effluent discharges from other systems were also considered. Effluent limits for systems such as roof drains and yard drains, the auxiliary boiler and the sewage treatment plant are established in the NPDES permit. Discharges from these systems are not changed by operation at uprated power. Thus, the impact on the environment from these systems as a result of operation at uprated power levels is not significant.

Because the flow rate and velocity of influent to and effluent from the circulating water and service water systems will remain unchanged by operation at uprated power levels, no increased entrainment of planktonic organisms and or impingement of fish is expected. As part of the request to update the NPDES permit, the licensee submitted a report of aquatic sampling that was performed in the Conowingo Pond in October and November 1993. The report was provided to the NRC in the June 29, 1994 letter. The objective of the study was to "determine the relative abundance and distribution of fishes in Conowingo Pond, particularly the thermal effluent, and compare the results with the historic record." The report concluded that "No obvious changes in the species abundance, except for the gizzard shad in recent years, were observed between 1993 and the historic record. Changes in the abundance of a particular species has historically been associated with year class strength. Strong year classes are associated with increased abundance of a species." Samples of the gizzard shad were generally stronger than the historic record for the various sample locations and methods.

Operation at uprated power levels will not result in increased noise generation for the majority of plant equipment. Some of this equipment, such as the main turbine and generator will operate at the same speed and thus will not contribute to increased offsite noise. Other equipment, such as reactor feed pumps, will operate at increased speeds; however, the majority of this type of equipment is located within

plant structures and will not lead to increased offsite noise levels. The impact of a potential increase in noise from the cooling towers was considered. As described previously, operation of the cooling towers is controlled by the requirements of the NPDES permit. Operation of the facility at uprated power levels is not expected to result in operation of more cooling towers than are operated under current power limits. Thus the existing cooling tower noise levels would not be expected to change. However, the existing cooling towers may be operated for an increased number of days per year. The licensee qualitatively estimated that the cooling tower duty cycle would increase by a small amount (in terms of cooling tower-days per year). Thus, the current cooling tower noise levels would exist for a slightly increased number of days per year and the environmental effect of increased noise would be insignificant.

The FES described the impact of plant operation on fogging in the vicinity of the facility. Fogging estimates were made for a number of locations near the plant. The FES discussed that the increase in fogging due to plant operation over the natural occurrence of fogging was expected to be minimal and not significant. The staff expects that operation of the plant at uprated power levels will result in only a minimal increase in fogging over that discussed in the FES. Thus, the impact of plant operation on local fogging, including operation at uprated power, remains insignificant.

Makeup water requirements are not expected to change significantly, if at all, due to operation at uprated power levels. The circulating water system, service water systems and cooling towers are once-through systems and, as such, do not have makeup requirements. The licensee indicated that operation of the reactor at slightly (< 30 psig) higher operating pressures may lead to slightly higher valve packing leak rates. System leakage, however, is processed through the liquid radwaste system and returned to the condensate storage tank for reuse. Based on the above considerations, the staff concluded that the effect of makeup requirements at uprated power levels on the environment is not significant.

Radiological Environmental Assessment

The licensee evaluated the impact of the proposed amendment to show that the applicable regulatory acceptance criteria continue to be satisfied for the uprated power conditions. In conducting this evaluation, the licensee considered the effect of the higher power level on source terms on-site and offsite doses, and control room habitability during both normal operation and accident conditions. The licensee provided information regarding the radiological environmental effects of the proposed action in NEDC–32183P and supplemental information in the September 30, 1994 submittal. In Sections 8.1 and 8.2 of NEDC–32183P, the licensee discussed the potential effect of power uprate on liquid and gaseous radioactive waste systems. Sections 8.3 and 8.4 discussed the potential effect of power uprate on radiation sources in the reactor core during operation and post-operation, and radiation sources in the coolant resulted from coolant activation products, activated corrosion products and fission products. Section 8.5 of the Topical Report discussed the radiation levels during normal operation, normal post-operation, post-accident, and offsite doses during normal operation. Finally, Section 9.2 of NEDC–32183P presented the results of calculated whole body and thyroid doses at the uprated power and current authorized power conditions at the exclusion area boundary and the low population zone that might result from the postulated design basis radiological accidents [i.e., loss-of-coolant-accident (LOCA), main stream line break accident (MSLBA) outside containment, fuel handling accident (FHA) and control rod drop accident (CRDA].

In Section 8.1 of NEDC–32183P, the licensee stated that there will be only a slight increase in the liquid radwaste collection as a result of operation at higher power levels. The largest contributor to the liquid waste results from the backwash of the condensate demineralizers. The power uprate will increase the flow rate through the condensate demineralizers, with a subsequent reduction in the average time between backwashing. Additionally, neither the floor drain collector subsystem, nor the waste collector subsystem is expected to experience a significant increase in the total volume of liquid waste due to operation at the uprated condition.

The licensee stated that while the activated corrosion products in liquid wastes are expected to increase proportionally to the power uprate, the total volume of processed waste is not expected to increase appreciably since the only significant increase in processed waste is due to the more frequent backwashes of condensate and reactor water cleanup (RWCU) system demineralizers. The licensee noted that backwashing is normally initiated as a result of high differential pressure rather than activity content and that this is expected to remain the case for operation under uprated power conditions. Based on its analyses of the liquid radwaste system, the licensee has concluded the requirements of 10 CFR Part 20 and 10 CFR Part 50, Appendix I, will be met. Based on the above considerations, the staff concluded that the effect on the environment of operation of the liquid radiological waste stream at uprated power levels is not significant.

The gaseous waste management systems, collect, control, process, store and dispose of gaseous radioactive waste generated during normal operation and abnormal operational occurrences. The gaseous waste management systems include the offgas system, standby gas treatment system (SGTS), and various building ventilation systems. The systems are designed to meet the requirements of 10 CFR Part 20 and 10 CFR Part 50, Appendix I.

In its power uprate submittal, the licensee has stated that the greatest contributor of radioactive gases are the non-condensible radioactive gases from the main condenser, including activation gases (principally N–16, O–19, and N–13) and radioactive noble gas parents. The increase in production of these gases is expected to be approximately proportional to the core power increase. These non-condensible radioactive gases, along with nonradioactive air due to in-leakage to the condenser, are continuously removed by the stream jet air ejector from the main condensers, and discharge into the offgas system. The flow of these gases into the offgas system are included with the flow of H_2 and O_2 from the recombiner which will also increase linearly with core power. Radioactive gases and H_2 and O_2 pass from the recombiner through an adsorber bed, holdup pipe, HEPA filters and exit the facility through the main stack. Gaseous activity effluent release rates are monitored down stream of the adsorber bed and alarms are provided in the control room. The licensee has stated that the operational increases in gases are not significant when compared to the current total system flow.

The design basis for the offgas system is for activity release rates of 100,000 microcuries per second based on a mixture of activation and fission product gases and fuel leakage and a 30-minute holdup time. The system is designed to met the requirements of 10 CFR Part 20 and 10 CFR part 50, appendix I. Performance of the system at uprated power levels is expected to remain within the system design basis and, thus, to continue to meet the

requirements of 10 CFR Part 20 and 10 CFR Part 50, Appendix I.

The contribution of gases to the gaseous waste management system from building ventilation systems is not expected to increase significantly with power uprate because 1) the amount of fission products released into the reactor coolant depends on the number and nature of the fuel rod defects and is not dependent on reactor power, and 2) the concentration of coolant activation products is expected to remain unchanged since the linear increase in the production of these products will be offset by the linear increase in steaming rate.

Based on its review of the gaseous waste management system, the staff concluded that the effect on the environment of operating the gaseous radiological waste stream at uprated power is not significant.

The licensee has evaluated the effects of the power rerate on in-plant radiation levels in the Peach Bottom 2 and 3 facility during normal conditions. The radiation levels during periods of normal operation and post-operation are expected to increase by no more than the percentage increase in power level. However, because many areas of the plant were designed for higher than expected radiation sources, the small increase in radiation levels expected due to power rerate will not affect radiation zoning or shielding in the plant.

During periods of normal and post-operation conditions, individual worker exposures will be maintained within acceptable limits by the existing "as-low-as-reasonably-achievable" (ALARA) program, which controls access to radiation areas. The ALARA program at Peach Bottom has been instrumental in the lowering of annual collective doses at the plant over the past several years. Since 1985, the three-year average dose at Peach Bottom 2 and 3 has decreased by approximately 70 percent.

The licensee stated that the original accident radiological consequence analyses could not be exactly reconstituted and, therefore, the reconstituted analyses were performed using methodology described in the updated final safety analysis report (UFSAR) with the original licensing basis assumptions at 3528 MWt (102 percent of the uprated power level). The licensee's reconstituted analyses indicate the calculated offsite radiological consequence doses are within the dose reference values given in 10 CFR Part 100 and also meet the control room operator dose limit given in 10 CFR 50, Appendix A, General Design Criteria (GDC) 19.

In the Peach Bottom operating license safety evaluation report issued in August 1972 (Safety Evaluation of the Peach Bottom Atomic Power Station Units 2 & 3, Docket Nos: 50–277, 50–278" issued by the Atomic Energy Commission, dated August 11, 1972), the staff performed an independent radiological consequence analyses at 3440 MWt (105 percent of current power level). The staff believes that, in general, offsite and control room operator doses will increase proportionally to the increase in power level. Therefore, the staff did not recalculate the offsite and control room operator doses resulting from a postulated design basis loss of coolant accident (which is the controlling design basis accident (DBA)). Instead, the staff proportionally increased the doses based on power levels using the same licensing basis assumptions used in 1972 and compared them with the licensee's reconstituted calculation (See Table 1 below). Neither the staff nor the licensee included radiation doses resulting from (1) main steam line isolation valve leakages and (2) SGTS fission-product bypass during the reactor building pressure drawdown time following a DBA, since they were not included in the original licensing basis assumptions.

TABLE 1

	EAB thyroid whole body (rem)	LPZ thyroid whole body (rem)
SER 3440 MWt	14.0 1.	105 3 (note 1)
3528 MWt 14.4 1 .		108 3 (note 2)
UFSAR 3440 MWt	12.5 0.4.	201 1.3
3528 MWt 14.8 0.6 .		239 3.9
Part 100 Limits	300 25.	300 25

Note 1 Safety Evaluation for Peach Bottom Atomic Power Station Units 2 and 3 (August 1972)

Note 2 Uprated based on power ratio

Based on a review of the licensee's major assumptions and methodology used in their reconstituted dose calculations and the staff's original safety evaluation, the staff finds that the offsite radiological consequences and control room operator doses at uprated 3528 MWt still remain below 10 CFR Part 100 dose reference values and GDC 19 dose limit and the increase in radiological consequences is very minor.

It is expected that the increased energy requirements associated with operation at uprated power will require an increase in the reload fuel enrichment and will result in increased burnup. The NRC previously evaluated the environmental impacts associated with burnup values of up to 60,000 MWd/MT with fuel enrichments up to 5% ^{235}U (published in the **Federal Register**, 53 FR 6040 dated February 29, 1988). The staff concluded that the environmental impacts associated with Table S–3 of 10 CFR 51.51, "Uranium Fuel Cycle Environmental Data," and Table S–4 of 10 CFR 51.52, "Environmental Effects of Transportation of Fuel and Waste," are conservative and bound the corresponding impacts for burnup levels of up to 60,000 MWd/MtU and ^{235}U enrichments up to 5 percent by weight. In the September 30, 1994 submittal, the licensee indicated that while fuel burnup and enrichment levels may increase as a result of operation at uprated power, the burnup and enrichment will remain within the 5% enrichment and 60,000 MWd/MT value previously evaluated by the staff. Based on the above cited environmental assessment and the licensee's statements regarding expected burnup and enrichment values, the staff concludes that the environmental effects of increased fuel cycle and transportation activity as a result of operation at uprated power levels are not significant.

The NRC staff has reviewed the licensee's re-evaluation of the potential radiological and non-radiological environmental impacts for the proposed action. On the basis of the review described above, the NRC staff finds that the radiological and non-radiological environmental impacts associated with the proposed small increase in power are very small and do not change the conclusion in the FES that the operation of Peach Bottom Atomic Power Station, Units 2 and 3, would cause no significant adverse impact upon the quality of the human environment.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological or non-radiological environmental impact.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative to the action would be to deny the request. Such action would not significantly reduce the environmental impact of plant operation but would restrict operation of Peach Bottom Atomic Power Station,

Units 2 and 3 to the currently licensed power level and prevent the facility from generating the additional 60 MWe that is obtainable from the existing plant design.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement related to the operation of Peach Bottom Atomic Power Station, Units 2 and 3," dated April 1973.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and consulted with the Bureau of Radiation Protection, Pennsylvania Department of Environmental Resources, regarding the environmental impact of the proposed action. The State official had no comments regarding NRC's proposed action.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 23, 1993, as supplemented by letters dated April 5, May 2, June 6, June 8, June 29, July 6 (two letters), July 7, July 20, July 28 (two letters), September 16, 1994 and September 30, 1994, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the State Library of Pennsylvania, Government Publications Section, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 12th day of October 1994.

For the Nuclear Regulatory Commission.

John Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–25590 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–M

Workshop to Discuss the Draft Policy Statement for Agreement State Regulatory Programs Adequacy to Protect Public Health and Safety and Compatibility With the NRC Regulatory Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) staff plans to convene a public workshop with representatives of Agreement States, non-Agreement States, the regulated community, public groups and the general public to discuss the draft policy statement for Agreement State adequacy to protect public health and safety and compatibility of Agreement State regulatory programs with that of the NRC. The purpose of the workshop is to seek comments and recommendations from the full spectrum of interested parties on the various issues pertaining to the draft policy statement.

DATE: The workshop will be held on November 15, 1994. The time is 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting is to be held at the Nuclear Regulatory Commission's Auditorium, Two White Flint, 11545 Rockville Pike, Rockville, Maryland 20814, Telephone (301) 504–3340.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, Office of State Programs, Mail Stop 3D23, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504–2325.

SUPPLEMENTARY INFORMATION: On July 21, 1994 (59 FR 37269), the Nuclear Regulatory Commission published for public comment a draft general statement of policy regarding the review of Agreement State radiation control programs. The comment period for this draft policy statement expires on December 19, 1994. A copy of the draft policy statement, which will be the subject of the November 15, 1994 workshop can be obtained at the NRC Public Document Room, 2120 L Street NW. (Lower Level) Washington, DC 20555. However, a copy can also be obtained by contacting: Cardelia Maupin, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504–2312.

Conduct of the Meeting

The workshop will be conducted in a manner that will expedite the orderly conduct of business. A transcript of the workshop will be available for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555 on or about December 15, 1994.

The following procedures apply to public attendance at the workshop:

1. Questions or statements from attendees will be entertained as time permits.

2. Seating for the public will be on a first-come, first-served basis.

Dated at Rockville, Maryland this 6th day of October, 1994.

For the Nuclear Regulatory Commission.

Richard Bangart,

Director, Office of State Programs.

[FR Doc. 94–25588 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–M

Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of New Hampshire

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the State of New Hampshire. The MOU provides the basis for mutually agreeable procedures whereby the State of New Hampshire may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in New Hampshire. Public comments were addressed in conjunction with the MOU with the State of Michigan published in the Federal Register Vol. 57, No. 28, February 11, 1992.

EFFECTIVE DATE: This MOU is effective September 7, 1994.

ADDRESSES: Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: John R. Jolicoeur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6402 or (301) 415–7559.

This attached MOU is intended to formalize and define the manner in which the NRC will cooperate with the State of New Hampshire to provide data related to plant conditions during emergencies at commercial nuclear power plants in New Hampshire. Dated

at Rockville, Maryland, this 6th day of October, 1944.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Director, Office for Analysis and Evaluation of Operational Data.

Pertaining to the Emergency Response Data System Between the State of New Hampshire Office of Emergency Management and the U.S. Nuclear Regulatory Commission

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of New Hampshire enter into this AGREEMENT under the authority of Section 274i of the Atomic Energy Act of 1954, as amended.

New Hampshire recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

II. Background

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with State at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities and monitoring the status and adequacy of the licensee's responses to emergency situations.

D. New Hampshire fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the New Hampshire Radiological Emergency Response Plan.

A. This Agreement defines the way in which NRC and New Hampshire will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants in the State of New Hampshire.

B. It is understood by the NRC and the State of New Hampshire that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of New Hampshire or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; not is anything in this Agreement intended to restrict or expand the authority of the State of New Hampshire on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State or New Hampshire authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this Agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and re-transmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of New Hampshire during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10 mile Emergency Planning Zone (EPZ) lies within the State of New Hampshire. The NRC agrees to provide unique software already available to NRC (not commercially available) that was developed under NRC contract for configuring an ERDS workstation.

V. New Hampshire's General Responsibilities

A. New Hampshire will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, New Hampshire will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. New Hampshire agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State boundary. Clarification of ERDS data will be pursued through the NRC.

VI. Implementation

New Hampshire and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. New Hampshire and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.

B. NRC and New Hampshire agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and New Hampshire will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to New Hampshire by the NRC. New Hampshire may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, New Hampshire will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Incident Response Division, Office for Analysis and Evaluation of Operational Data, and the Chief, Technological Hazard Section of the New Hampshire Office of Emergency Management. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict communications between NRC and New Hampshire staff members on technical and other day-to-day activities.

A. If disagreements arise about matters within the scope of this Agreement, NRC and New Hampshire will work together to resolve these differences.

B. Resolution of differences between the State of New Hampshire and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Incident Response Division management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office of Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

X. Duration

A formal review, not less than one (1) year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This Agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this Agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

Dated: August 30, 1994.

For the U.S. Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Dated: September 7, 1994.

For the State of New Hampshire.

George L. Iverson,

Director, New Hampshire Office of Emergency Management.

[FR Doc. 94–25589 Filed 10–14–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34811; File No. SR–Amex–94–37]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Off-Site Storage of Customer Options Account Information

October 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 12, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, paragraph (b), "Maintenance of Customer Records," of Amex Rule 922, "Supervision of Accounts," requires that background and financial information of customers who have been approved for options transactions be maintained at both the branch office servicing the customer's account and at the principal supervisory office with jurisdiction over the branch office. Amex Rule 922(b) also requires that copies of account statements be maintained at both the branch office supervising the accounts and at the principal supervisory office with jurisdiction over the branch for the most recent six-month period. The Amex proposes to amend Exchange Rule 922(b) to provide that the customer information and account statements currently maintained at the principal supervisory office may be maintained at a location other than the principal supervisory office if the documents and information are readily accessible and promptly retrievable.

The text of the proposal is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Presently, the rules of all the options exchanges and the National Association of Securities Dealers, Inc. ("NASD") uniformly require that both the branch office servicing an options customer's account and the principal supervisory office having jurisdiction over the branch office retain account statements and other financial and background information for the account for supervisory purposes. With the advances in data storage and retrieval capability available through optical disks, fax machines, microfiche and computer, coupled with the escalating costs of storing records on-site, many member organizations prefer to store documents away from their principal supervisory offices. In this connection, an increasing number of member organizations have asked and received permission from the self-regulatory organizations ("SROs") to store the required customer option account documents off-site so long as they are readily accessible and promptly retrievable. In view of the number of requests received by the SROs to store customer options information off-site, the Options Self-Regulatory Council ("OSRC")[1] has asked each of the options exchanges and the NASD to consider amending their rules to permit

[1] The OSRC is a committee comprised of representatives from each of the options exchanges and the NASD.

the principal supervisory office to store customer account information off-site.

The Exchange believes that these off-site storage arrangements are consistent with the record retention requirement rules, provided the documents are readily accessible and promptly retrievable. In this regard, the proposed rule will not compromise the supervisory obligations of a member firm since the firm will still be required to maintain customer option account documents and information at the branch office servicing the customer's account. To ensure compliance with the provisions of the rule, the Amex states that it will periodically examine the document retrieval capabilities of member firms using off-site document storage arrangements.

(b) Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days after the 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 reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25552 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34808; File No. SR–Amex–94–01)

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to the Proposed Rule Change by the American Stock Exchange, Inc. Relating to Exercise Cut-Off Procedures for Expiring Equity Options

October 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] on January 11, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") a proposed rule change relating to the exercise procedures for expiring equity option contracts. The proposal was published for comment in the **Federal Register** on February 18, 1994.[3] No comments were received on the proposed rule change. The Amex filed Amendment No. 1 to the proposal on September 22, 1994, and Amendment No. 2 on October 5, 1994.[4] This order approves the proposed rule change, as amended.[5]

Currently, with regard to expiring equity options, Amex customers and member organizations[6] are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. Eastern Standard Time ("E.S.T.") on the business day immediately prior to the expiration date of the options ("Exercise Cut-Off-Time").[7] This is the latest time by which an exercise instruction[8] may be: (1) prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from a non-clearing member; or (3) accepted by a member organization from any customer.[9] The only exceptions to Rule 980 are: (1) to remedy mistakes made in good faith; (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange option

[2] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. § 78s(b)(1)(1988).

[2] 17 CFR 240.19b–4 (1993).

[3] See Securities Exchange Act Release No. 33609 (February 9, 1994), 59 FR 8279 (February 18, 1994).

[4] In Amendment Nos. 1 and 2, the Amex proposes to make certain clarifying amendments to Rule 980, as discussed herein. *See* Letters from Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated September 22, 1994 ("Amendment No. 1"); and from Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated October 5, 1994 ("Amendment No. 2").

[5] The Commission notes that substantively similar proposals by the other options exchanges are being approved concurrently with the Amex's proposed rule change. *SEE* File Nos. SR–CBOE–94–06; SR–Phlx–93–37; and SR–PSE–94–12.

[6] As used herein, the term "member organization" also includes individual members of the Exchange.

[7] See Amex Rule 980. Generally, equity options may be traded until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday").

[8] For customers, an exercise instruction is a notice delivered to a member organization to exercise an option. For a member organization or clearing member, an exercise instruction is a notice to The Options Clearing Corporation ("OCC") to exercise an option that would not be automatically exercised pursuant to OCC's exercise-by-exception procedure ("OCC Rule 805"), or not to exercise an option that otherwise would automatically be exercised pursuant to the OCC Rule 805. See infra note 14. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to the OCC by the clearing members. The proposed rule change does not in any way affect the rules of the OCC.

[9] In most cases, exercise instructions are transmitted to Exchange clearing members electronically through the Clearing Management and Control System ("C/MACS").

transactions; and (3) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to a member organization (or a member organization's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action.[10] Member organizations are required to prepare a memorandum of every exercise instruction received from a customer stating the time when such instruction was received. If a member organization receives an exercise instruction or tenders an exercise notice to the OCC pursuant to one of the exceptions described above, the member organization must maintain a memorandum setting forth the circumstances giving rise to the exception. If the member organization is relying on either the first or third exception described above, it must promptly file a copy of the memorandum with the Exchange.

Presently, it is a violation of Rule 980 for clearing members to accept exercise instructions after the Exercise Cut-Off Time, except in reliance on one of the above exceptions. Because exercise instructions are submitted to the clearing members and then to the OCC by the clearing members, without having the audit trail pass directly through the Exchange, it is difficult for the Exchange to surveil for violations of Rule 980.[11]

In order to enhance the ability of the Exchange to surveil for violations of Rule 980 for expiring equity options, the proposed rule change would alter the existing exercise instruction procedures by requiring that final exercise decisions also be submitted to the Exchange. The clearing members would still be responsible for delivering exercise notices to the OCC,[12] however, the proposed rule change would allow the Exchange to accurately document when each exercise instruction was received by a member organization or clearing member, or delivered by a clearing member to the OCC.[13] The Exercise Cut-Off Time will still be 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date. Pursuant to the proposal, however, there will be two means of exercising an expiring equity option: (1) take no action and allow exercise determinations to be made in accordance with OCC Rule 805;[14] or (2) the member organization may submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) ("Contrary Exercise Advice"). Contrary Exercise Advices would be submitted by a member organization either: (1) at a place designated for that purpose by any national options exchange of which the member organization is a member and where the option is listed; or (2) to the Exchange via the OCC in a format prescribed by the OCC.[15] In those instances where OCC Rule 805 has been waived by the OCC,[16] the proposal requires that a Contrary Exercise Advice be submitted prior to the Exercise Cut-Off Time by member organizations wishing to exercise an options that would not have been automatically exercised had the exercise-by-exception procedure been in effect, or not to exercise an option that would have been automatically exercised had the exercise-by-exception procedure been in effect.[17] The applicable underlying security price in such instances will be as described in OCC Rule 805(l), which will normally be the last sale price in the primary market for the underlying security.[18]

The proposal would also require member organizations that maintain proprietary or public customer account positions in expiring options to be responsible for ensuring that final exercise decisions are indicated to the Exchange regarding such positions.[19] In addition, member organizations which have accepted the responsibility to indicate final exercise decisions on behalf of another member organization or non-member firm shall take necessary steps to ensure that such decisions are properly indicated.[20] Member organizations may establish an internal processing cut-off time prior to 5:30 p.m. (E.S.T.) at which time final exercise decisions from their customers will no longer be accepted by them for expiring options.[21]

With certain minor modifications, the proposal maintains the current exceptions to Rule 980. The proposal, however, adds language to Rule 980(b) to expressly state that the burden of establishing an exception to the Exercise Cut-Off Time for a proprietary or customer account of a member organization rests solely on the member organization seeking to rely on such exception.

In the event a member organization does not timely submit a Contrary Exercise Advice in accordance with the proposed procedures, or does not timely submit a Contrary Exercise Advice pursuant to an exception, the responsible member organization must prepare a written memorandum describing the surrounding

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[10] Rule 980 also does not apply to expiring index options. See Amex Rules 900C and 980C. An additional purpose of the proposed rule change is to specifically state within Rule 980 that the Exercise Cut-Off Time does not apply to expiring index options.

[11] The Commission believes that the Exercise Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. See Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[12] Exercise instructions will still be submitted to clearing members, however, the requirements for this process will be determined by each clearing member, in accordance with the OCC's rules. This process will no longer be governed by the Amex's rules. Pursuant to the OCC's rules, equity options expire at 12:00 a.m. on the third Saturday of the expiration month. As explained earlier, the OCC has its own rules as to the latest time by which clearing members must submit exercise notices to the OCC. These rules are separate from the Exchange's Exercise Cut-Off Time and are not affected by the proposed rule change.

[13] The proposed rule change also makes it clear that reporting of final exercise decisions as contemplated by the revised rule does not serve to substitute as the effective exercise notice to OCC for the exercise or non-exercise of expiring options.

[14] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. See OCC Rule 805.

[15] Even though this may be accomplished by submitting exercise decisions directly to the Exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the Exchange through C/MACS. Due to the burden that would be placed on members of having to manually process every exercise decision for delivery directly to the Exchange, the procedures and rules being approved herein will not be implemented by the Amex until the OCC submits a written representation to the Commission that C/MACS has been modified as necessary, fully tested, and ready to go on-line, to allow members to submit exercise decisions to the Exchange though C/MACS. This process is expected to be completed in time for the November 1994 expirations.

[16] The could happen where an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, the OCC determines not to fix a closing price for that security. See OCC Rule 805(l).

[17] When the OCC waives the exercise-by-exception procedure, the OCC's rules require submission of an affirmative exercise notice for all exercises even in circumstances where a Contrary Exercise Advice is not required to be submitted to the Exchange. See Amendment No. 2, *supra* note 4.

[18] *Id.*

[19] See Amendment No. 1, *supra* note 4.

[20] *Id.*

[21] *Id.*

circumstances[22] and must file a copy of the memorandum with the Exchange's Market Surveillance Department no later than 12:00 p.m. (E.S.T.) on the business day following that expiration.[23]

Finally, the proposal makes clear that the requirements specified in the Rule 980 only apply to expiring equity options listed on the Exchange.[24]

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly, Section 6(b)(5) of the Act.[25] Specifically, the Commission believes the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although all options exchanges currently have a uniform 5:30 p.m. (E.S.T.) Exercise Cut-Off Time on Expiration Fridays for expiring equity options, the OCC's rules permit the OCC to accept exercise notices for expiring equity options from clearing firms until 12:00 a.m. (E.S.T.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability to receive final exercise decisions before the Exercise Cut-Off Time. Nevertheless, there have been situations where member organizations have either delayed making exercise decisions until after 5:30 p.m. (E.S.T.) on Expiration Friday in anticipation of the release of material news concerning a particular underlying company, or having made decisions prior to 5:30 p.m. (E.S.T.), changed these decisions based upon such material news.[26] In this regard, the Commission believes that it is consistent with this approval for the Exchange to interpret its rules to deem the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time as activity inconsistent with just and equitable principles of trade.[27]

The Commission believes that the proposed exercise procedures should enhance the Exchange's ability to surveil for violations of Rule 980 by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed with the Exchange, in addition to the current procedure of submitting an exercise instruction to a clearing member as is currently required.[28] Similarly, the proposal requires that documentation must be prepared and submitted to the proper options exchange whenever a late exercise decision is made in reliance on one of the exceptions to Rule 980, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Rule 980. Accordingly, because the proposed rule change significantly bolsters the Exchange's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[29]

Even though the proposed rule change significantly improves the Exchange's audit trail with respect to late exercises, the Commission believes that the Exchange should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Rule 980.[30] Furthermore, the Commission also encourages the Exchange to review the permitted exceptions to Rule 980 and consider ways of establishing parameters as to the extent of the exceptions.[31]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the Commission believes that Amendment Nos. 1 and 2 to the proposal, as discussed above, clarify the application of the rule and may serve to minimize confusion and disputes between and among members and customers as to the application of this rule. Additionally, the original proposal was noticed for the full comment period without any comments being received by the Commission. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1 and 2 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–94–01 and should be submitted by November 7, 1994.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (File No. SR–Amex–94–01), as amended, is hereby approved.[33]

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[22] The memorandum must also include the time when such final exercise decision was made or, in the case of a customer, was received.

[23] The Exchange has represented that effecting an exercise decision in an expiring equity option on the basis of material information obtained after the Exercise Cut-Off Time would be deemed to be activity inconsistent with just and equitable principles of trade. Telephone conversation between George Peckman, Vice President, Market Surveillance, Amex, and Sharon Lawson, Assistant Director, OMS, Division, Commission, on September 16, 1994.

[24] See *supra* note 10.

[25] 15 U.S.C. 78f(b)(5) (1988).

[26] See *e.g.*, *In re Farmers, Group Stock Options Litigation*, Master File No. 88–4994 (E.D.Pa 1989).

[27] See *supra* notes 11 and 23.

[28] See *supra* note 12.

[29] The Commission notes that the Amex has represented that it will prepare (in cooperation with the other options exchanges) and distribute a notice to member organizations describing the new procedures set forth above, and notifying member organizations as to when the new procedures will be fully in effect. See *supra* notes 5 and 15.

[30] For example, the Amex may wish to consider adopting additional penalties in those situations where a member organization is unable to establish the existence of one of the exceptions to rule 980 for a particular trade or trades.

[31] For example, the Exchange may want to define expressly in the rule the circumstances that qualify for a good faith exception.

[32] 15 U.S.C. 78s(b)(2) (1982).

[33] The Commission notes, however, that the proposed rule change will not be implemented until the Commission receives certain written representations from the OCC regarding the operational status of C/MACS. See *supra* note 15.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25551 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34819; File No. SR–BSE–94–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program

October 11, 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 October 3, 1994, as subsequently amended on October 6, 1994,[1] the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks a twelve-month extension of its Specialist Performance Evaluation Program ("SPEP").[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to incorporate certain objective measures into the Exchange's SPEP. The evaluation program, using the BEACON system,[3] looks at all incoming orders routed to a specialist for execution. A record of all action on these orders is accumulated in a separate file, from which four calculations are run.

Selection criteria for eligible orders include regular buy and sell market and marketable limit orders only. Orders marked buy minus or sell plus are excluded, as are crosses and all orders with qualifiers (*e.g.*, market-on-close, stop, stop limit, all or none, etc.). The order entry date must equal the order execution date.

For each of the measures, including the Specialist Performance Evaluation Questionnaire ("SPEQ"), a ten-point scale will be applied to a range of scores. Based on the raw score for each measure, the respective specialist will receive an associated score between one and ten points, which will be weighted as indicated for each measure.

The first measure is Turnaround Time, which calculates the average number of seconds for all eligible orders, based on the number of seconds between the receipt of a guaranteed market or marketable limit order (*i.e.*, for 1, 299 shares or less)[4] in BEACON and the execution, partial execution, stopping or cancellation of the order. An order that is moved from the auto-ex screen to the manual screen will accumulate time until executed, partially executed, stopped or canceled. This calculation will not be in effect until the individual stock has opened on the primary market. Certain situations, such as trading halts and periods where the BEACON system is off auto-ex floorwide, will result in blocks of time being excluded from the calculation. A specialist who averaged a raw score of 25 seconds will receive 7 points since it falls in the 21 to 25 second range. This calculation will comprise 15% of the overall evaluation program.

TURNAROUND TIME

Time in seconds	Points
1–10	10
11–15	9
16–20	8
21–25	7
26–30	6
31–35	5
36–40	4
41–45	3
46–50	2
51 and up	1

The second measure is Holding Orders Without Action, which measures the number of market and marketable limit orders (all sizes included)[5] that are held without action for greater than twenty-five (25) seconds. As in the Turnaround Time calculation, a stop, cancellation, execution or partial execution stops the clock. The same exclusions which apply in the Turnaround Time calculation also apply here.[6] Thus if a specialist receives a total of 100 market and marketable limit orders and holds ten (10) of them for more than 25 seconds, his/her raw score of 10% would receive 9 points since it falls in the 6 to 10 percent range. This calculation will comprise 15% of the overall evaluation program.

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[34] 17 CFR 200.30–3(a)(12) (1993).

[1] Amendment No. 1 corrected certain typographical errors in the proposal.

[2] The Commission initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR–BSE–84–04). The Commission subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR–BSE–87–06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR–BSE–90–01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR–BSE–91–01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR–BSE–92–01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR–BSE–92–04), at which point the initial pilot program ceased to exist as a separate program. Commission approval of the BSE's current SPEP pilot program expires on December 31, 1994. See Securities Exchange Act Release No. 33341 (December 15, 1993), 58 FR 67875 (December 22, 1993) (File No. SR–BSE–93–16).

[3] BEACON is the BSE's automated order-routing and execution system. BEACON provides a guarantee of execution for market and marketable limit orders up to and including 1,299 shares. In addition, BEACON can be used to transmit orders not subject to automatic execution. See BSE Rules, Ch. XXXIII. Sec. 5(a) and 7.

[4] Telephone conversation between Karen Aluise, Assistant Vice President, BSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on September 23, 1993.

[5] Unlike Turnaround Time, see *supra* text accompanying note 4, Holding Orders Without Action is not limited to those orders guaranteed automatic execution through BEACON.

[6] According to the BSE, the Holding Orders Without Action calculation will not be in effect until the individual stock has opened on the primary market. In addition, certain situations, such as trading halts and periods where the BEACON system is off auto-ex floorwide, will result in blocks of time being excluded from the Holding Orders Without Action calculation. Telephone conversations between Karen Aluise, Assistant Vice President, BSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on September 23, 1993.

HOLDING ORDERS WITHOUT ACTION

Percentage of orders	Points
0–5	10
6–10	9
11–15	8
16–20	7
21–25	6
26–30	5
31–35	4
36–40	3
41–45	2
46 and up	1

The third measure is Trading Between the Quote, which measures the number of market and marketable limit orders that are executed between the best consolidated bid and offer where the spread is greater than ⅛th. Thus if a specialist receives ten market and marketable limit orders where the spread between the best consolidated bid and offer is greater than ⅛th, and such specialist executes five of the orders between the bid and offer, his/her raw score would be 50% and would receive 9 points since it falls in the 46 to 50 percent range. This calculation will comprise 25% of the overall evaluation program.

TRADING BETWEEN THE QUOTE

Percentage of orders	Points
51 and up	10
46–50	9
41–45	8
36–40	7
31–35	6
26–30	5
21–25	4
16–20	3
11–15	2
0–10	1

The fourth measure is Executions in Size Greater than BBO, which measures the number of market and marketable limit orders which exceed ether BBO size and are executed in size larger than the BBO size. Thus if a specialist receives a total of 10 market and marketable limit orders which exceed the BBO size and executes nine of the orders in size larger than the BBO size, his/her raw score would be 90% and would receive 8 points since it falls in the 86 to 90 percent range. This calculation will comprise 25% of the overall evaluation program.

EXECUTIONS IN SIZE GREATER THAN BBO

Percentage of orders	Points
96–100	10
91–95	9
86–90	8

EXECUTIONS IN SIZE GREATER THAN BBO—Continued

Percentage of orders	Points
81–85	7
76–80	6
71–75	5
66–70	4
61–65	3
55–60	2
55 and below	1

In addition, several changes have been made to the questionnaire (SPEQ) in view of the adoption of the objective measures which have made some questions obsolete. The minimum acceptance raw score for each question remains at 4.5. Thus if a specialist receives a raw score of 4.5 for each question for a weighted raw score (based on the weights for each question within the questionnaire) of 50.0052, he/she would receive 4 points since it falls in the 50 to 54 weighted raw score range. The questionnaire will comprise 20% of the overall evaluation program.

Weighted raw score	Points
83 and above	10
77–82	9
72–76	8
66–71	7
61–65	6
55–60	5
50–54	4
44–49	3
38–43	2
37 and below	1

Using the examples for each measure above, the following weighted point totals would result in an overall program score of 7.45:

Measure	Points	Weighted Points
Turnaround Time (15%)	7	1.05
Holding Orders Without Action (15%)	9	1.35
Trading Between the Quote (25%)	9	2.25
Executions in Size >BB0 (25%)	8	2.00
Questionnaire (20%)	4	0.80
		7.45

The rule has been amended to reflect that any specialist who is deficient[7] in any one of the objective measures for two out of three consecutive review periods will be required to appear before the Performance Improvement Action Committee to discuss ways of improving performance. If performance does not improve in the subsequent period, the specialist will appear before the Market Performance Committee for appropriate action, as described below.[8]

Any specialist who falls below the threshold level for the overall evaluation program for two out of three consecutive review periods will be required to appear before the Market Performance Committee and the Committee will take action to address the deficient performance as provided for in Paragraph 2156.10–.60.[9] A specialist who is ranked in the bottom ten percent of the overall evaluation program but who is above the threshold level for the overall program will be subject to staff review to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems.

The following threshold scores have been set at which a specialist will be deemed to have adequately performed:[10]

Overall Evaluation Score—at or above weighted score of 5.80
Turnaround Time—below 21.0 seconds (8 points)
Holding Orders Without Action—below 21.0% (7 points)
Trading Between the Quote—at or above 26.0% (5 points)
Executions in Size >BBO—at or above 76.0% (6 points)
Questionnaire—at or above weighted score of 50 (4 points)

Due to the subjectiveness of the questionnaire, a specialist who is deficient on the questionnaire alone will be subject to review by Exchange staff to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems. However, a deficient score on the questionnaire may result in performance improvement action where it lowers the overall program score below 5.80.

The Exchange requests an extension of the current pilot program for a twelve-month period to begin on January 1, 1995. This twelve-month period will enable the Exchange to further evaluate the appropriateness of

[7] A specialist is deficient in any measure if he/she scores below the minimum adequate performance thresholds set forth below. See *infra*, text accompanying note 10.

[8] The Commission notes that, in the event a specialist's performance does not improve, SPEP's Supplemental Material authorizes the Market Performance Committee to take the following actions: suspending the specialist's trading account privilege, suspending his/her alternate specialist account privilege or reallocating his/her specialty stocks.

[9] See *supra*, note 8.

[10] A specialist who receives a score that is below a minimum adequate performance threshold will be deemed to be deficient in that measure. See *supra*, note 7.

the measures and their respective weights, as well as the effectiveness of the overall evaluation program.

2. Statutory Basis

The basis under the Act for the proposed rule change is Section 6(b)(5) in that the SPEP results weigh heavily in stock allocation decisions and, as a result, specialists are encouraged to improve their market quality and administrative duties, thereby promoting just and equitable principles of trade and aiding in the perfection of a free and open market and a natural market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

No burden on competition is perceived by the adoption of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–94–12 and should be submitted by November 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25603 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34807; File No. SR–CBOE–94–06]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Exercise Cut-Off Procedures for Expiring Equity Options

October 7, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] and Rule 19b–4 thereunder,[2] on March 16, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") a proposed rule change relating to the exercise procedures for expiring equity option contracts. The proposal was published for comment in the **Federal Register** on May 18, 1994.[3] No comments were received on the proposed rule change. The CBOE filed Amendment No. 1 to the proposal on September 19, 1994, and Amendment No. 2 on October 5, 1994.[4] This order approves the proposed rule change, as amended.[5]

Currently, with regard to expiring equity options, CBOE customers and member organizations[6] are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. Eastern Standard Time ("E.S.T.") on the business day immediately prior to the expiration date of the options ("Exercise Cut-Off Time").[7] This is the latest time at which an exercise instruction[8] may be: (1) Prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from a market maker or floor broker for positions in the market maker's account or the floor broker's error account; or (3) accepted by a member organization from any customer for positions in the customer's account.[9] The only exceptions to Rule 11.1 are: (1) To remedy mistakes or errors made in good faith; (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange transactions; and (3) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a member organization (or a member organization's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action.[10] An exercise instruction memorandum must be prepared and time stamped for the exercise of all option contracts not automatically

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] See Securities Exchange Act Release No. 34051 (May 12, 1994), 59 FR 25970 (May 18, 1994).

[4] In Amendment Nos. 1 and 2, the CBOE proposes to make certain clarifying amendments to Rule 11.1, as discussed herein. See Letters from Jeffrey Schroer, Vice President, Market Regulation, Regulatory Services Division, CBOE, to Sharon Lawson, Assistant Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated September 19, 1994 ("Amendment No. 1"); and from Patricia Cerny, Director, Department of Market Surveillance, CBOE, to Brad Ritter, Senior Counsel, OMS, Division, Commission, and dated October 5, 1994 ("Amendment No. 2").

[5] The Commission notes that substantively similar proposals by the other options exchanges are being approved concurrently with the CBOE's proposed rule change. See File Nos. SR–Amex–94–01; SR–Phlx–93–37; and SR–PSE–94–12.

[6] As used herein, the term "member organization" also includes individual members of the Exchange.

[7] See CBOE Rule 11.1. Generally, equity options may be traded until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday").

[8] For customers, an exercise instruction is a notice delivered to a member organization to exercise an option. For a clearing member, market maker, or floor broker, an exercise instruction is a notice to The Options Clearing Corporation ("OCC") to exercise an option that would not be automatically exercised pursuant to the OCC's exercise-by-exception procedure ("OCC Rule 805"), or not to exercise an option that otherwise would automatically be exercised pursuant to OCC Rule 805. See *infra* note 15. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to the OCC by the clearing members. The proposed rule change does not in any way affect the rules of the OCC.

[9] In most cases, exercise instructions are transmitted to Exchange clearing members electronically through the Clearing Management and Control System ("C/MACS"). Telephone conversation between Jeffrey Schroer, Vice President, Market Surveillance, CBOE, and Brad Ritter, Attorney, OMS, Division, Commission, on July 27, 1994.

[10] CBOE Rule 11.1 does not apply to expiring series of index options on the business day immediately prior to expiration. See CBOE Rule 11.1, Interpretation .03(e). An additional purpose of the proposed rule change is to specifically state within Rule 11.1 that the Exercise Cut-Off Time does not apply to expiring index options.

exercised pursuant to OCC Rule 805.[11] If a member organization receives an exercise instruction or tenders an exercise notice to the OCC pursuant to one of the exceptions described above, the member organization must maintain a memorandum setting forth the circumstances giving rise to the exception.[12]

Presently, it is a violation of Rule 11.1 for clearing members to accept exercise instructions after the Exercise Cut-Off Time, except in reliance on one of the above exceptions. Because exercise instructions are submitted to the clearing members and then to the OCC by the clearing members, without having the audit trail pass directly through the Exchange, it is difficult for the Exchange to surveil for violations of Rule 11.1.[13]

In order to enhance the ability of the Exchange to surveil for violations of Rule 11.1 for expiring equity options, the proposed rule change would alter the existing exercise instruction procedures by requiring that final exercise decisions also be submitted to the Exchange. The clearing members would still be responsible for delivering exercise notices to the OCC, however, the proposed rule change would allow the Exchange to accurately document when each exercise instruction was received by a member organization or clearing member, or delivered by a clearing member to the OCC.[14] The Exercise Cut-Off Time will still be 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date. Pursuant to the proposal, however, there will be two means of exercising an expiring equity option: (1) Take no action and allow exercise determinations to be made in accordance with OCC Rule 805;[15] or (2) the market maker, floor broker, or clearing member, as applicable, must submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) ("Contrary Exercise Advice"). Contrary Exercise Advice would be submitted by a market maker, floor broker, or clearing member either: (1) In such form or manner prescribed by the Exchange to a place designated by the Exchange; or (2) to the Exchange via the OCC in a format prescribed by the OCC.[16] In those instances where OCC Rule 805 has been waived by the OCC,[17] the proposal requires that a Contrary Exercise Advice be submitted prior to the Exercise Cut-Off Time by member organizations wishing to exercise an option that would not have been automatically exercised had the exercise-by-exception procedures been in place, or not to exercise an option that would have been automatically exercised had the exercise-by-exception procedure been in place.[18] The applicable underlying security price in such instances will normally be the last sale price in the primary market for the underlying security.

The proposal would also require that members properly communicate to the Exchange final exercise decisions in respect of positions for which they are responsible.[19] Member organizations may establish an internal processing cut-off time prior to 5:30 p.m. (E.S.T) at which time final exercise decisions from their customers will no longer be accepted by them for expiring options.

The proposal maintains the current exceptions to Rule 11.1. The proposal, however amends Rule 11.1(b) to provide that the Exercise Cut-Off Time is the latest time at which an exercise instruction may be submitted by a market maker or floor broker to (rather than accepted by) a clearing member. As a result of this change, the CBOE will interpret Rule 11.1(b) as placing the burden of establishing an exception to the Exercise Cut-Off Time solely on the member organization seeking to rely on such exception.[20]

In the event a member organization makes a final exercise decision after the Exercise Cut-Off Time in reliance on one of the above exceptions, the responsible member organization must prepare a written memorandum describing the surrounding circumstances and must promptly file a copy of the memorandum with the Exchange.

Furthermore, in order to highlight the seriousness of violating Rule 11.1, the proposed rule language would expressly state that affecting an exercise decision in an expiring equity option on the basis of material information obtained after the Exercise Cut-Off Time is considered to be activity inconsistent with just and equitable principles of trade.

The proposal also provides that the failure of any member to follow the proposed procedures may be referred to the Exchange's Business Conduct Committee and result in the assessment of a fine, which may include, but is not limited to, disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Business Conduct Committee.

Finally, the proposal makes clear that the requirements specified in the Rule

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[11] See *infra* note 14. The Exchange deems the preparation, time stamping, or submission of an exercise instruction memorandum prior to the purchase the contracts to be exercised to be a violation of Rule 11.1. See CBOE Rule 11.1, Interpretation .02.

[12] Should the market maker, customer or firm subsequently determine not to exercise all or part of the advised contracts, the member must also deliver an "advice cancel" in such form or manner as prescribed by the Exchange. See CBOE Rule 11.1, Interpretation .03(a).

[13] The Commission believes that the Exercise Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. See Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[14] Because the OCC's rules are not changing, the reporting of final exercise decisions as contemplated by the revised rule does not serve to substitute as the effective exercise notice to OCC for the exercise or non-exercise of expiring options. The Commission also notes that the proposed procedures discussed herein are in addition to the Exchange's existing procedures regarding the submission of exercise instructions to clearing members, which for the most part, are not being amended by this proposal. See CBOE Rule 11.1.

[15] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. See OCC Rule 805.

[16] Even though this may be accomplished by submitting exercise decisions directly to the Exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the Exchange through C/MACS. Due to the burden that would be placed on members of having to manually process every exercise decision for delivery directly to the Exchange, the procedures and rules being approved herein will not be implemented by the CBOE until the OCC submits a written representation to the Commission that C/MACS has been modified as necessary, fully tested, and ready to go on-line, to allow members to submit exercise decisions to the Exchange through C/MACS. This process is expected to be completed in time for the November 1994 expirations.

[17] The could happen where an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, the OCC determines not to fix a closing price for that security. See OCC Rule 805(l).

[18] When the OCC waives the exercise-by-exception procedure, the OCC's rules require submission of an affirmative exercise notice for all excercises even in circumstances where a Contrary Exercise Advice is not required to be submitted to the Exchange. See Amendment No. 2, *supra* note 4.

[19] See Amendment No. 1, *supra* note 4.

[20] Telephone conversation with Jeffrey Schroer, Vice President, Market Regulation, Regulatory Services Division, CBOE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on July 27, 1994.

11.1 only apply to expiring equity options listed on the Exchange.[21]

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly, Section 6(b)(5) of the Act.[22] Specifically, the Commission believes the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although all options exchanges currently have a uniform 5:30 p.m. (E.S.T.) Exercise Cut-Off Time on Expiration Fridays for expiring equity options, the OCC's rules permit the OCC to accept exercise notices for expiring equity options from clearing firms until 12:00 a.m. (E.S.T.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability to receive final exercise decisions before the Exercise Cut-Off Time. Nevertheless, there have been situations where member organizations have either delayed making exercise decisions until after 5:30 p.m. (E.S.T.) on Expiration Friday in anticipation of the release of material news concerning a particular underlying company, or having made decisions prior to 5:30 p.m. (E.S.T.), changed these decisions based upon such material news.[23] In this regard, the Commission believes that it is appropriate for the Exchange to make it clear in its rules that the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time will be activity deemed inconsistent with just and equitable principles of trade.[24]

The Commission believes that the proposed exercise procedures should enhance the Exchange's ability to surveil for violations of Rule 11.1 by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed with the Exchange, in addition to submitting an exercise instruction to a clearing member as is currently required.[25] Similarly, the proposal requires that documentation must be prepared and submitted to the proper options exchange whenever a late exercise decision is made in reliance on one of the exceptions to Rule 11.1, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Rule 11.1. Accordingly, because the proposed rule change significantly bolsters the Exchange's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[26]

Even though the proposed rule change significantly improves the Exchange's audit trail with respect to late exercises, the Commission believes that the Exchange should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Rule 11.1. In this regard, the Commission encourages the Exchange to review the permitted exceptions to Rule 11.1 and consider ways of establishing parameters as to the extent of the exceptions.[27]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the Commission believes that Amendment Nos. 1 and 2 to the proposal, as discussed above, clarify the application of the rule and may serve to minimize confusion and disputes between and among members and customers as to the application of this rule. Additionally, the original proposal was noticed for the full comment period without any comments being received by the Commission. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1 and 2 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–94–06 and should be submitted by November 7, 1994.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (File No. SR–CBOE–94–06), as amended, is hereby approved.[29]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25553 Filed 10–14–94; 8:45 am]

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[Release No. 34–34818; File No. SR–NYSE–94–12]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Exercise Cut-Off Procedures for Expiring Equity Options

October 11, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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[21] See *supra* note 10.

[22] 15 U.S.C. § 78f(b)(5) (1988).

[23] See, *e.g.*, In re Farmers Group Stock Options Litigation, Master File No. 88–4994 (E.D.Pa 1989).

[24] See *supra* note 13.

[25] See *supra* note 14.

[26] The Commission notes that the CBOE has represented that it will prepare (in cooperation with the other options exchanges) and distribute a notice to member organizations describing the new procedures set forth above, and notifying member organizations as to when the new procedures will be fully in effect. See *supra* notes 5 and 16.

[27] For example, the Exchange may want to define expressly in the rule the circumstances that qualify for a good faith exception.

[28] 15 U.S.C. 78s(b)(2) (1982).

[29] The Commission notes, however, that the proposed rule change will not be implemented until the Commission receives certain written representations from the OCC regarding the operational status of C/MACS. See *supra* note 16.

[30] 17 CFR 200.30–3(a)(12) (1993).

("ACT"),[1] and Rule 19b–4 thereunder,[2] on March 23, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") a proposed rule change relating to the exercise procedures for expiring equity option contracts. The proposal was published for comment in the **Federal Register** on May 18, 1994.[3] No comments were received on the proposed rule change. The NYSE filed Amendment No. 1 to the proposal on September 19, 1994, Amendment No. 2 on September 27, 1994, and Amendment No. 3 on October 7, 1994.[4] This order approves the proposed rule change, as amended.[5]

Currently, with regard to expiring equity options, NYSE customers and member organizations[6] are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. Eastern Standard Time ("E.S.T.") on the business day immediately prior to the expiration date of the options ("Exercise Cut-Off Time").[7] This is the latest time by which an exercise instruction[8] may be: (1) prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from an options specialist or competitive options trader for positions is its account or from a floor broker for positions in its error account; or (3) accepted by a member organization from any customer for positions in the customer's account.[9] The only exceptions to Rule 780 are: (1) to remedy mistakes or errors made in good faith (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange option transactions; and (3) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a member organization (or a member organization's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action.[10] Member organizations are required to time stamp each exercise instruction at the time it is prepared.

Presently, it is a violation of Rule 780 for clearing members to accept instructions after the Exercise Cut-Off Time except in reliance on one of the above exceptions. Because exercise instructions are submitted to the clearing members and then to the OCC by the clearing members, without having the audit trail pass directly through the Exchange, it is difficult for the Exchange to surveil for violations of Rule 780.[11]

In order to enhance the ability of the Exchange to surveil for violations of Rule 780 for expiring equity option, the proposed rule change would alter the existing exercise instruction procedures by requiring that final exercise decisions also be submitted to the Exchange. The clearing members would still be responsible for delivering exercise notices to the OCC,[12] however, the proposed rule change would allow the Exchange to accurately document when each exercise instruction was received by a member organization or clearing member, or delivered by a clearing member to the OCC.[13] The Exercise Cut-Off Time will still be 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date. Pursuant to the proposal, however, there will be two means of exercising an expiring equity option: (1) take no action and allow exercise determinations to be made in accordance with OCC Rule 805;[14] or (2) the member organization may submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) ("Contrary Exercise Advice"). Contrary Exercise Advices would be submitted by a member organization either: (1) at a place designated for that purpose by any national options exchange of which the member organization is a member and where the option is listed; or (2) to the Exchange via the OCC in a format prescribed by the OCC.[15] In those

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] See Securities Exchange Act Release No. 34050 (May 12, 1994), 59 FR 25978 (May 18, 1994).

[4] In Amendment Nos. 1, 2, and 3, the NYSE proposes to make certain clarifying amendments to Rule 780, as discussed herein. See Letters from Hope Duffy, Director, Options and Special Products, NYSE, to Sharon Lawson, Assistant Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated September 19, 1994 ("Amendment No. 1"), dated September 27, 1994 ("Amendment No. 2"); and Letter from James Buck, Senior Vice President and Secretary, NYSE, to Sharon Lawson, Assistant Director, OMS, Division, Commission, dated October 7, 1994 ("Amendment No. 3").

[5] The Commission notes that substantively similar proposals by the other options exchanges have been approved. See Securities Exchange Act Release Nos. 34806 (October 7, 1994) (Order approving File No. SR–Phlx–93–37), 34807 (October 7, 1994) (order approving File No. SR–CBOE–94–06), 34808 (October 7, 1994) (approving File No. SR–Amex–94–01), and 34810 (October 7, 1994) (approving File No. SR–PSE–94–12).

[6] As used herein, the term "member organization" also includes individual members of the Exchange.

[7] See NYSE Rule 780. Generally, equity options may be traded until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday").

[8] For customers, an exercise instruction is a notice delivered to a member organization to exercise an option. For a clearing member, options specialist, or competitive options trader (as defined in NYSE rules), an exercise instruction is a notice to The Options Clearing Corporation ("OCC") to exercise an option that would not be automatically exercised pursuant to the OCC's exercise-by-exercise procedure ("OCC Rule 805"), or not to exercise an option that otherwise would automatically be exercised pursuant to OCC Rule 805. See *infra* note 14. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to the OCC by the clearing members. The proposed rule change does not in any way affect the rules of the OCC.

[9] In most cases, exercise instructions are transmitted to Exchange clearing members electronically through the Clearing Management and Control System ("C/MACS").

[10] Rule 780 also does not apply to expiring index options. See NYSE Rule 780, Supplementary Material .10(c).

[11] The Commission believes that the Exercise Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. See Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[12] Exercise instructions will still be submitted to clearing members, however, the requirements for this process will be determined by each clearing member, in accordance with the OCC's rules. This process will no longer be governed by the NYSE's rules. Pursuant to the OCC's rules, equity options expire at 12:00 a.m. on the third Saturday of the expiration month. As explained earlier, the OCC has its own rules as to the latest time by which clearing members must submit exercise notices to the OCC. These rules are separate from the Exchange's Exercise Cut-Off Time and are not affected by the proposed rule change.

[13] The proposed rule change also makes it clear that reporting of final exercise decisions as contemplated by the revised rules does not serve to substitute as the effective exercise notice to OCC for the exercise or non-exercise of expiring options.

[14] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submissions of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. See OCC Rule 805.

[15] Even though this may be accomplished by submitting exercise decisions directly to the Exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the Exchange through C/MACS. Due to the burden that would be placed on members of having to manually process every exercise decision for delivery directly to the Exchange, the procedures and rules being approved herein will not be implemented by the NYSE until the OCC submits a written representation to the Commission that C/MACS has been modified as necessary, fully tested, and ready to go on-line, to allow members to submit exercise decisions to the Exchange through C/MACS. This process is expected to be completed in time for the November 1994 expirations.

instances where OCC Rule 80-5 has been waived by the OCC,[16] the proposal requires that a Contrary Exercise Advice be submitted prior to the Exercise Cut-Off Time by member organizations wishing to exercise an option that would not be automatically exercised in the absence of such a waiver, or not to exercise an option that would be automatically exercised in the absence of such a waiver.[17] The applicable price of the underlying security in such instances shall be the last sale price in the primary market for the underlying security, except as OCC Rule 805(l) otherwise provides.[18]

The proposal would also require member organizations that maintain proprietary or customer account positions in expiring options to be responsible for ensuring that final exercise decisions are communicated to the Exchange regarding such positions.[19] In addition, member organizations which have accepted the responsibility to indicate final exercise decisions on behalf of another member organization or non-member firm shall take reasonable steps to ensure that such decisions are properly indicated to the Exchange. Member organizations may establish an internal processing cut-off time prior to 5:30 p.m. (E.S.T.) at which time final exercise decisions from their customers will no longer be accepted by them for expiring options.[20]

With certain minor modifications, the proposal maintains the current exceptions to Rule 780. The proposal, however, adds language to Rule 780(b) to expressly state that the burden of establishing an exception to the Exercise Cut-Off Time rests solely on the member organization seeking to rely on such exception.

As proposed, each member organization shall prepare a memorandum of every final exercise decision for which a Contrary Exercise Advice is required.[21] In the event a member organization makes a final exercise decision after the Exercise Cut-Off Time in reliance on one of the above exceptions, the responsible member organization must prepare a written memorandum describing the surrounding circumstances and must file a copy of the memorandum with the Exchange's Market Surveillance Department not later than 12:00 p.m. (E.S.T.) on the business day following that expiration.[22]

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly, Section 6(b)(5) of the Act.[23] Specifically, the Commission believes the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although all options exchanges currently have a uniform 5:30 p.m. (E.S.T.) Exercise Cut-Off Time on Expiration Fridays for expiring equity options, the OCC's rules permit the OCC to accept exercise notices for expiring equity options from clearing firms until 12:00 a.m. (E.S.T.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability receive final exercise decisions before the Exercise Cut-Off Time. Nevertheless, there have been situations where member organizations have either delayed making exercise decisions until after 5:30 p.m. (E.S.T.) on Expiration Friday in anticipation of the release of material news concerning a particular underlying company, or having made decisions prior to 5:30 p.m. (E.S.T.), changed these decisions based upon such material news.[24] In this regard, the Commission believes that it is consistent with this approval for the Exchange to interpret its rules to deem the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time as activity inconsistent with just and equitable principles of trade.[25]

The Commission believes that the proposed exercise procedures should enhance the Exchange's ability to surveil for violations of Rule 780 by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed with the Exchange, in addition to submitting an exercise instruction to a clearing member as is currently required.[26] Similarly, the proposal requires that documentation must be prepared and submitted to the proper options exchange whenever a late exercise decision is made in reliance on one of the exceptions to Rule 780, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Rule 780. Accordingly, because the proposed rule change significantly bolsters the Exchange's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[27]

Even though the proposed rule change significantly improves the Exchange's audit trail with respect to late exercises, the Commission believes that the Exchange should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Rule 780.[28] Furthermore, the Commission also encourages the Exchange to review the permitted exceptions to Rule 780 and consider ways of establishing parameters as to the extent of the exceptions.[29]

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[16] This could happen where an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, the OCC determines not to fix a closing price for that security. See OCC Rule 805(l).

[17] When the OCC waives the exercise-by-exception procedure, the OCC's rules require submission of an affirmative exercise notice for all exercises even in circumstances where a Contrary Exercise Advice is not required to be submitted to the Exchange. See Amendment No. 3, *supra* note 4.

[18] *Id.*

[19] See Amendment No. 1, *supra* note 4.

[20] See Amendment Nos. 1 and 2, *supra* note 4.

[21] The memorandum must also include the time when such final exercise decision was made or, in the case of a customer, was received.

[22] The Exchange has represented that effecting an exercise decision in an expiring equity option on the basis of material information obtained after the Exercise Cut-Off Time would be deemed to be activity inconsistent with just and equitable principles of trade. Telephone conversation between Holly Duffy, Director, Options and Special Products, NYSE, and Sharon Lawson, Assistant Director, OMS, Division, Commission, on September 16, 1994.

[23] 15 U.S.C. § 78f(b)(5) (1988).

[24] See, *e.g.*, *In re Farmers Group Stock Options Litigation*, Master File No. 88–4994 (E.D.Pa).

[25] See *supra* notes 11 and 22.

[26] See *supra* note 12.

[27] The Commission notes that the NYSE has represented that it will prepare (in cooperation with the other options exchanges) and distribute a notice to member organizations describing the new procedures set forth above, and notifying member organizations as to when the new procedures will be fully in effect. See *supra* notes 5 and 15.

[28] For example, the NYSE may wish to consider adopting additional penalties in those situations where a member organization is unable to establish the existence of one of the exceptions to Rule 780 for a particular trade or trades.

[29] For example, the Exchange may want to define expressly in the rule the circumstances that qualify for a good faith exception.

The Commission finds good cause for approving Amendment Nos. 1, 2, and 3, to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, the Commission believes that Amendment Nos. 1, 2, and 3 to the proposal clarifies the application of the rule and may serve to minimize confusion and disputes between and among members and customers as to the application of this rule. Additionally, the original proposal was noticed for the full comment period without any comments being received by the Commission. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1, 2, and 3 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–12 and should be submitted by November 7, 1994.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (File No SR–NYSE–94–12), as amended, is hereby approved.[31]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

[30] 15 U.S.C. 78s(b)(2) (1982).

[31] The Commission notes, however, that the proposed rule change will not be implemented until the Commission receives certain written representations from the OCC regarding the operational status of C/MACS. See *supra* note 15.

[32] 17 CFR 200.30–3(a)(12) (1993).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25604 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34810; File No. SR–PSE–94–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Exercise Cut-Off Procedures for Expiring Equity Options

October 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 1994, the Pacific Stock Exchange ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The PSE filed Amendment No. 1 to the proposed rule change on June 17, 1994, Amendment No. 2 on September 19, 1994, and Amendment No. 3 on September 30, 1994.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. This order also approves the proposed rule change, as amended, on an accelerated basis.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend its rules on procedures relating to the exercise of expiring equity option contracts.[5] The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] In Amendment Nos. 1, 2, and 3 the PSE proposes to make certain clarifying amendments to Rule 6.24, as discussed herein. In addition, Amendment No. 3 requests accelerated effectiveness of the proposed rule change. See Letters from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Francois Mazur, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated June 17, 1994; from David Semak, Vice President, Regulation, PSE, to Brad Ritter, Senior Counsel, OMS, Division, Commission, dated September 19, 1994 ("Amendment No. 2"); and from Michael Pierson, Senior Counsel, OMS, Division, Commission, dated September 30, 1994 ("Amendment No. 3").

[4] See *infra* Section III.

[5] The Commission notes that substantively similar proposals by the other options exchanges are being approved concurrently with the PSE's proposed rule change. See File Nos. SR–Amex–94–01; SR–CBOE–94–06; and SR–Phlx–93–37.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PSE 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 Exchange is proposing to amend its Rule 6.24 in several respects. First, the Exchange is proposing to add a new Commentary .04 to Rule 6.24 in order to incorporate a new exercise cut-off procedure for expiring equity options. Second, the Exchange is proposing to add new commentary .05 to Rule 6.24 to address the responsibility for the submission of final exercise decisions to the Exchange and to provide that member firms may establish internal processing cut-off times prior to the Exercise Cut-Off Time (as defined herein).[6] Third, the Exchange is proposing to add a new Commentary .06 to Rule 6.24 in order to address situations in which a member submits or prepares an exercise instruction after the 5:30 p.m. Eastern Standard Time ("E.S.T.") exercise cut-off time ("Exercise Cut-Off Time") in an expiring equity option on the basis of material information that is released after the Exercise Cut-Off Time.[7] Finally, the Exchange proposes to modify subsection (b) of Rule 6.24 to clarify that the provisions of Rule 6.24 only apply to non-cash settled equity option contracts.

More specifically, proposed Commentary .04 would provide that clearing members must follow the procedures of The Options Clearing Corporation ("OCC") when exercising expiring non-cash settled equity option contracts. It also provides that members must follow certain procedures with respect to the exercising of non-cash settled equity option contracts which would otherwise not be exercised, or the non-exercising of option contracts

[6] See Amendment No. 2, *supra* note 3.

[7] *Id.*

which otherwise would be exercised, by operation of OCC Rule 805.[8]

Pursuant to the proposal, there will be two means of exercising an expiring equity option: (1) Take no action and allow exercise determinations to be made in accordance with OCC Rule 805; or (2) the market maker, floor broker, or clearing member, as applicable, must submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) ("Contrary Exercise Advice"). Contrary Exercise Advices would be submitted by a market maker, floor broker, or clearing member either: (1) In such form or manner prescribed by the Exchange to a place designated by the Exchange; or (2) to the Exchange via the OCC in a format prescribed by the OCC. The proposal also provides that subsequent to the delivery of a Contrary Exercise Advice, should the market maker, floor broker, customer, or firm determine to act other than as reflected on the original contrary Exercise Advice, an "advice cancel" must also be delivered in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than the Exercise Cut-Off Time.

Subsection (c) to Commentary .04 would also be amended to provide that all of the procedures of Commentary .04 are in full force and effect whether or not the OCC waives the exercise-by-exception provisions of OCC Rule 805.[9] In the event of such waiver, the procedures of Commentary .04 shall be followed as if such provisions of OCC Rule 805 were in full force and effect.[10]

Subsection (e) to Commentary .04 provides that the failure of any member to follow the procedures set forth in Commentary .04 may be referred to the Ethics and Business Conduct Committee and result in the assessment of a fine, which may include, but is not limited to, disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Ethics and Business Conduct Committee.[11]

Proposed Commentary .05 provides that members and member organizations shall properly communicate, in accordance with Rule 6.24, final exercise decisions to the Exchange in respect of options positions for which they are responsible.[12] Additionally, Commentary .05 also will provide that member organizations may establish an internal processing cut-off time prior to the Exercise Cut-Off Time at which time final exercise decisions from their customers will no longer be accepted by them for expiring options.[13]

Finally, proposed Commentary .06 provides that if a member submits or prepares an exercise instruction after the Exercise Cut-Off Time in any expiring option on the basis of material information that is released after the Exercise Cut-Off Time, then such activity is inconsistent with just and equitable principles of trade.[14]

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PSE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.[15]

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly, Section 6(b)(5) of the Act.[16] Specifically, the Commission believes the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although all options exchanges currently have a uniform 5:30 p.m. (e.s.t.) Exercise Cut-Off Time for expiring equity options,[17] the OCC's rules permit the OCC to accept exercise notices for expiring equity options from clearing firms until 12 a.m. (e.s.t.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability to receive final exercise decisions before the Exercise Cut-Off Time. Because exercise instructions presently are submitted to clearing members and then to the OCC by the clearing members, without having the audit trail pass directly through the Exchange, it is difficult for the Exchange to surveil for violations of Rule 6.24.[18] As a result, there have been

[8] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. See OCC Rule 805.

[9] The Commission notes that this could occur where an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, the OCC determines not to fix a closing price for that security. See OCC Rule 805(l).

[10] When the OCC waives the exercise-by-exception procedure, the OCC's rules require submission of an affirmative exercise notice for all exercises even in circumstances where a Contrary Exercise Advice is not required to be submitted to the Exchange. See Amendment No. 3, *supra* note 3.

[11] If any member relies on one of the exceptions to Rule 6.24(b) as the basis for the failure of the member to comply with the procedures set forth in new Commentary .04, the burden shall be on the member to establish the grounds for the exception. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on October 6, 1994. The only exceptions to Rule 6.24 are: (1) To remedy mistakes or errors made in good faith; (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange transactions; and (3) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a member organization (or a member organization's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action.

[12] See Amendment No. 2, *supra* note 3.

[13] *Id.*

[14] *Id.*

[15] See Amendment No. 3, *supra* note 3.

[16] 15 U.S.C. 78f(b)(5) (1988).

[17] Generally, equity options may be traded until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday").

[18] The Commission believes that the Executive Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring

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situations where member organizations have either delayed making exercise decisions until after 5:30 p.m. (e.s.t.) on Expiration Friday in anticipation of the release of material news concerning a particular underlying company, or having made decisions prior to 5:30 p.m. (e.s.t.), changed these decisions based upon such material news.[19] The Commission, therefore, believes that it is appropriate for the Exchange to make it clear in its rules that the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time will be actively deemed inconsistent with just and equitable principles of trade.[20]

The Commission believes that the proposed exercise procedures should enhance the Exchange's ability to surveil for violations of Rule 6.24 by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed with the Exchange,[21] in addition to submitting an exercise instruction to a clearing member as is currently required.[22] Similarly, the proposal requires that documentation must be prepared and submitted to the proper options exchange whenever a late exercise decision is made in reliance on one of the exceptions to Rule 6.24, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Rule 6.24.[23] Accordingly, because the proposed rule change significantly bolsters the Exchange's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[24]

Even though the proposed rule change significantly improves the Exchange's audit trail with respect to late exercises, the Commission believes that the Exchange should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Rule 6.24. In this regard, the Commission encourages the Exchange to review the permitted exceptions to Rule 6.24 and consider ways of establishing parameters as to the extent of the exceptions.[25]

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, the Commission notes that the amended proposal is substantively similar to proposals submitted by the other options exchanges, which are being approved concurrently with the PSE's proposed rule change.[26] Additionally, each of the proposals submitted by the other exchanges was noticed for the full comment period without any comments being received by the Commission. Finally, Amendment Nos. 1, 2, and 3 to the PSE proposal, as was the case with the amendments to the proposals submitted by the other options exchanges, merely clarify the application of the rules and may serve to minimize confusion and disputes between and among members and customers as to the application of Rule 6.24, as amended. Accordingly, the Commission believes that it is consistent with section 6(b)(5) of the Act to approve the proposed rule change, as amended, on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, as amended. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–94–12 and should be submitted by November 7, 1994.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[27] that the proposed rule change (File No. SR–PSE–94–12), as amended, is hereby approved.[28]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

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after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. See Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[19] See *e.g.*, In re Farmers Group Stock Options Litigation, Master File No. 88–4994 (E.D.Pa 1989).

[20] See *supra* note 18.

[21] Even though this may be accomplished by submitting exercise decisions directly to the Exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the Exchange electronically through the Clearing Management and Control System ("C/MACS"). Due to the burden that would be placed on members of having to manually process every exercise decision for delivery directly to the Exchange, the procedures and rules being approved herein will not be implemented by the PSE until the OCC submits a written representation to the Commission that C/MACS have been modified as necessary, fully tested, and ready to go on-line, to allow members to submit exercise decisions to the Exchange through C/MACS. This process is expected to be completed in time for the November 1994 expirations.

[22] For customers, an exercise instruction is a notice delivered to a member organization to exercise an option. For a clearing member, market maker, or floor broker, an exercise instruction is a notice to the OCC to exercise an option that would not be automatically exercised pursuant to OCC Rule 805, or not to exercise an option that otherwise would automatically be exercised pursuant to OCC Rule 805. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to the OCC by the clearing members. The proposed rule change does not in any way affect the rules of the OCC in this regard. Because the OCC's rules are not changing, the reporting of final exercise decisions as contemplated by the revised rule does not serve to substitute as the effective exercise notice to OCC for the exercise or non-exercise of expiring options. The Commission also notes that the proposed procedures discussed herein are in addition to the Exchange's existing procedures regarding the submission of exercise instructions to clearing members, which for the most part, are not being amended by this proposal. See PSE Rule 6.24.

[23] PSE Rule 6.24 does not apply to expiring series of index options on the business day immediately prior to expiration. See PSE Rules 7 (Introduction) and 7.15(f). An additional purpose of the proposed rule change is to specifically state within Rule 6.24 that the Exercise Cut-Off Time does not apply to expiring index options.

[24] The Commission notes that the PSE has represented that it will prepare (in cooperation with the other options exchanges) and distribute a notice to member organizations describing the new procedures set forth above, and notifying member organizations as to when the new procedures will be fully in effect. See *supra* notes 5 and 21.

[25] For example, the Exchange may want to define expressly in the rule the circumstances that qualify for a good faith exception.

[26] See *supra* note 5.

[27] 15 U.S.C. 78s(b)(2) (1982).

[28] The Commission notes, however, that the proposed rule change will not be implemented until the Commission receives certain written representations from the OCC regarding the operational status of C/MACS. See *supra* note 21.

[29] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–34814; International Series Release No. 727; File No. SR–Phlx–94–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Enhanced Parity Split for the Specialist in 3D Foreign Currency Options

October 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Exchange Rule 1014(h) in order to permit an enhanced parity split for the specialist in the cash/spot foreign currency options ("FCOs") on the German mark, commonly referred to as 3D FCOs. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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 the Statutory Basis for, the Proposed Rule Change

The Commission approved the 3D FCOs for trading on March 8, 1994.[1] The product is an Options Clearing Corporation issued, European-style[2] option that will be listed, initially, in one-week and two-week expirations. As an inducement for the 3D FCO specialist to make deep and liquid markets in this new options product, the Phlx has determined to provide the 3D FCO specialist with an enhanced parity split in all 3D FCO trades.

Recently, the Commission approved two different enhanced parity split rules with respect to Phlx equity option specialists.[3] The Phlx now proposes to amend Exchange Rule 1014(h) to adopt an enhanced parity split for the 3D FCO specialist. Specifically, the 3D FCO specialist would be entitled to receive a 50% split of the first 500 contracts in any trade in which the 3D FCO specialist and one or more crowd participants are on parity as defined in Rule 1014(h).

The Exchange represents that customers, as they are defined in Rule 1014(h), will not be disadvantaged by this rule. The benefits accorded customers under subsection (i) of that rule will not change. Specifically, customer bids/offers for under 100 contracts will have time priority over all other bids/offers. In that instance, the 3D FCO specialist cannot be on parity with such customer so the enhanced split will not apply.

The purpose of the proposed enhanced parity split, according to the Phlx, is to encourage the 3D FCO specialist to make deeper markets in order to attract order flow to the Exchange. At the end of the first year, the Foreign Currency Option Committee ("Committee") will conduct a review of the entitlement to the enhanced parity split and additional reviews will be conducted by the Committee every six months thereafter.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will imposed any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With 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, 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 in 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 Phlx. All submissions should refer to File No. SR–Phlx–94–42 and should be submitted by November 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

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[1] *See* Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (March 15, 1994).

[2] A European-style option may only be exercised during a specified time period immediately prior to expiration of the option.

[3] *See* Securities Exchange Act Release Nos. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994) (providing an enhanced parity split for new specialist units trading newly listed options classes), and 34606 (August 26, 1994), 59 FR 45741 (September 2, 1994) (providing an enhanced parity split applying to specialists, other than new specialist units, for certain assigned classes).

[4] 17 CFR 200.30–3(a)(12) (1993).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 94–25557 Filed 10–14–94; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–34813; File No. SR–PHLX–94–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Regarding Amendments to PHLX Rule 1015 and Floor Procedure Advice A–11

October 7, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 19, 1994, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Paragraph (b), "Trade or Fade" of PHLX Rule 1015, "Quotation Guarantees," provides that, for non-public customer orders to buy (sell) at the displayed offer (bid), or portions of customer orders grater than the minimum size guarantee in that option, the trading crowd must either: (1) Sell (buy) the number of contracts specified in the order; or (2) change the displayed offer (bid) to reflect that the previous displayed offer (bid) is no longer available. PHLX Rule 1015(b) also states that when the disseminated market quote is revised, it shall be considered inconsistent with just and equitable principles of trade for the trading crowd to immediately re-display the previously disseminated market quote, unless such action is warranted by a change in market conditions. The PHLX proposes to amend Floor Procedure Advice ("Advice") A–11, "Responsibility to Make Ten-Up Markets," to add the "trade or fade" language of PHLX Rule 1015(b) to Advice A–11. In addition, the PHLX proposes to add the phrase "in any options series on the Exchange" to PHLX Rule 1015(a) in order to clarify the rule.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PHLX states that the purpose of the proposal is to amend Advice A–11 to correspond to PHLX Rule 1015. PHLX Rule 1015, which was amended recently,[1] mirrors the text of Advice A–11 and also adds a trade or fade provision. Because Advice A–11 was also amended recently,[2] the text of Advice A–11 was in flux when new PHLX Rule 1015 was adopted, and, accordingly, did not contain the trade or fade language approved therein. Otherwise, PHLX Rule 1015 tracks the text of Advice A–11 and was intended to incorporate the procedures of Advice A–11 into a specific PHLX rule.

At this time, the text of Advice A–11 no longer mirrors PHLX Rule 1015. In order to rectify this, the PHLX proposes to add two paragraphs to Advice A–11, which appears for advisory purposes in the PHLX's Floor Procedure Advice Handbook. In addition, the PHLX proposes a minor amendment to PHLX Rule 1015 to add the phrase "in any option series on the Exchange," which appears in the first paragraph of Advice A–11. The PHLX also proposes to amend Advice A–11 by labeling paragraph (a) as "Quotation Guarantees." The PHLX states that PHLX Rule 1015(a) was adopted without this particular phrase.

The PHLX believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest by copying the text of the trade or fade provisions in PHLX Rule 1015(b) to Advice A–11.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the administration of an existing PHLX rule. Specifically, the proposal modifies Advice A–11 by adding paragraph (b), "Trade or Fade," to make Advice A–11 consistent with PHLX Rule 1015. In addition, the proposal clarifies PHLX Rule 1015(a) by adding the phrase "in any options series on the Exchange" to the rule; the proposal also clarifies Advice A–11 by adding the heading "Quotation Guarantees" to paragraph (a) of Advice A–11. Accordingly, the proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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

[1] *See* Securities Exchange Act Release No. 34434 (July 22, 1994), 59 FR 39007 (August 1, 1994) (order approving File No. SR–PHLX–94–30).

[2] *See* Securities Exchange Act Release No. 34400 (July 19, 1994), 59 FR 38011 (July 26, 1994) (order approving File No. SR–PHLX–91–45).

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 November 7, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25556 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34806; File No. SR–Phlx–93–37]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Exercise Cut-Off Procedures for Expiring Equity Options

October 7, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] on December 20, 1993, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") a proposed rule change relating to the exercise procedures for expiring equity option contracts. The proposal was published for comment in the **Federal Register** on February 18, 1994.[3] No comments were received on the proposed rule change. The Phlx filed Amendment No. 1 to the proposal on July 12, 1994, Amendment No. 2 on September 22, 1994, and Amendment No. 3 on October 5, 1994.[4] This order approves the proposed rule change, as amended.[5]

Currently, with regard to expiring equity options, Phlx customers and member organizations[6] are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. Eastern Standard Time ("E.S.T.") on the business day immediately prior to the expiration date of the options ("Exercise Cut-Off Time").[7] This is the latest time by which an exercise instruction[8] may be: (1) Prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from a non-clearing member; or (3) accepted by a member organization from any customer.[9] The only exceptions to Rule 1042 are: (1) To remedy mistakes made in good faith; (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange option transactions; (3) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to a member organization (or a member organization's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action; and (4) with respect to foreign currency options.[10] Member organizations are required to prepare a memorandum of every exercise instruction received from a customer stating the time when such instruction was received. If a member organization receives an exercise instruction or tenders an exercise notice to the OCC pursuant to one of the first three exceptions described above, the member organization must maintain a memorandum setting forth the circumstances giving rise to the exception. If the member organization is relying on either the first or third exception described above, it must promptly file a copy of the memorandum with the Exchange.

Currently under Rule 1042 it is a violation for clearing members to accept exercise instructions after the Exercise Cut-Off Time, except in reliance on one of the above exceptions. Because exercise instructions are submitted to the clearing members and then to the OCC by the clearing members, without having the audit trail pass directly through the Exchange, it is difficult for the Exchange to surveil for violations of Rule 1042.[11]

In order to enhance the ability of the Exchange to surveil for violations of Rule 1042 for expiring equity options, the proposed rule change would alter the existing exercise instruction procedures by requiring that final exercise decisions be submitted to the Exchange. The clearing members would still be responsible for delivering exercise notices to the OCC,[12] however, the proposed rule change would allow the Exchange to accurately document when each exercise instruction was received by a member organization or clearing member, or delivered by a clearing member to the OCC.[13] The

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[3] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] *See* Securities Exchange Act Release No. 33610 (February 9, 1994), 59 FR 8280 (February 18, 1994).

[4] In Amendment Nos. 1, 2, and 3 the Phlx proposes to make certain clarifying amendments to Rule 1042, as discussed herein. *See* Letters from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated July 12, 1994; from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated September 22, 1994 ("Amendment No. 2"); and from Gerald O'Connell, First Vice President, Phlx, to Brad Ritter, Senior Counsel, OMS, Division, Commission, dated October 5, 1994 ("Amendment No. 3").

[5] The Commission notes that substantively similar proposals by the other options exchanges are being approved concurrently with the Phlx's proposed rule change. *See* File Nos. SR–Amex–94–01; SR–CBOE–94–06; SR–NYSE–94–12; and SR–PSE–94–12.

[6] As used herein, the term "member organization" also includes individual members of the Exchange.

[7] *See* Phlx Rule 1042. Generally, equity options may be traded until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday").

[8] For customers, an exercise instruction is a notice delivered to a member organization to exercise an option. For a member organization or clearing member, an exercise instruction is a notice to The Options Clearing Corporation ("OCC") to exercise an option that would not be automatically exercised pursuant to the OCC's exercise-by-exception procedure ("OCC Rule 805"), or not to exercise an option that otherwise would automatically be exercised pursuant to OCC Rule 805. *See infra* note 14. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to the OCC by the clearing members. The proposed rule change does not in any way affect the rules of the OCC.

[9] In most cases, exercise instructions are transmitted to Exchange clearing members electronically through the Clearing Management and Control System ("C/MACS").

[10] Rule 1042 also does not apply to expiring index options. *See* Phlx Rules 1001A and 1042A. An additional purpose of the proposed rule change is to specifically state within Rule 1042 that the Exercise Cut-Off Time does not apply to either expiring foreign currency options or index options.

[11] The Commission believes that the Exercise Cut-Off Time serves an important investor protection function. Specifically, the Exercise Cut-Off Time protects holders of short positions in equity options from unanticipated events occurring after the close of the market. As the Commission has previously stated, if expiring equity options were allowed to be exercised after the Exercise Cut-Off Time for reasons other than the exceptions set forth above, the Commission believes that options writers could be unfairly disadvantaged with respect to options holders by not having the same opportunity to react to such unanticipated events. *See* Securities Exchange Act Release No. 19589 (March 10, 1983), 48 FR 11196 (March 16, 1983).

[12] Exercise instructions will still be submitted to clearing members, however, the requirements for this process will be determined by each clearing member, in accordance with the OCC's rules. This process will no longer be governed by the Phlx's rules. Pursuant to the OCC's rules, equity options expire at 12:00 a.m. on the third Saturday of the expiration month. As explained earlier, the OCC has its own rules as to the latest time by which clearing members must submit exercise notices to the OCC. These rules are separate from the Exchange's Exercise Cut-Off Time and are not affected by the proposed rule change.

[13] The proposed rule change also makes it clear that reporting of final exercise decisions as

Continued

Exercise Cut-Off Time will still be 5:30 p.m. (Eastern Time) on the business day immediately prior to the expiration date. Pursuant to the proposal, however, there will be two means of exercising an expiring equity option: (1) Take no action and allow exercise determinations to be made in accordance with OCC Rule 805;[14] or (2) the member organization may submit a contrary exercise advice (*i.e.*, a notice committing an option holder either to exercise an option that would not otherwise be exercised automatically pursuant to OCC Rule 805, or not exercise an option that otherwise would be exercised automatically pursuant to OCC Rule 805) ("Contrary Exercise Advice"). Contrary Exercise Advices would be submitted by a member organization either: (1) At a place designated for that purpose by any national options exchange of which the member organization is a member and where the option is listed; or (2) to the Exchange via the OCC in a format prescribed by the OCC.[15] In those instances where OCC Rule 805 has been waived by the OCC,[16] the proposal requires that a Contrary Exercise Advice be submitted prior to the Exercise Cut-Off Time by member organizations wishing to exercise an options that would not have been automatically exercised had the exercise-by-exception procedure been in place, or not to exercise an option that would have been automatically exercised had the exercise-by-exception procedure been in place.[17] The applicable underlying security price in such instances will be as described in OCC Rule 805(1), which will normally be the last sale price in the primary market for the underlying security.[18]

The proposal would also require member organizations that maintain proprietary or public customer positions in expiring options to take necessary steps to ensure that final exercise decisions are properly indicated to the Exchange regarding such positions.[19] In addition, member organizations which have accepted the responsibility to indicate final exercise decisions on behalf of another member organization or non-member firm shall take necessary steps to ensure that such decisions are properly indicated in compliance with Rule 1042, as amended.[20] Member organizations may establish an internal processing cut-off time prior to 5:30 p.m (E.S.T.) at which time final exercise decisions from their customers will no longer be accepted by them for expiring options.[21]

With certain minor modifications, the proposal maintains the current exceptions to Rule 1042. The proposal, however, adds language to Rule 1042(b) to expressly state that the burden of establishing an exception to the Exercise Cut-Off Time for a proprietary or customer account of a member organization rests solely on the member organization seeking to rely on such exception.

In the event a member organization does not timely submit a Contrary Exercise Advice in accordance with the proposed procedures, or does not timely submit a Contrary Exercise Advice pursuant to an exception, the responsible member organization must prepare a written memorandum describing the surrounding circumstances[22] and must file a copy of the memorandum with the Exchange's Market Surveillance Department no later than 12:00 p.m. (E.S.T.) on the business day following that expiration.

Furthermore, in order to highlight the seriousness of violating Rule 1042, the proposed rule language would expressly state that effecting an exercise decision in an expiring equity option on the basis of material information obtained after the Exercise Cut-Off Time is considered to be activity inconsistent with just and equitable principles of trade.

Finally, the proposal would state in the Commentaries to Rule 1042 that the requirements specified in the rule do not apply to foreign currency options or index option products listed on the Exchange.[23]

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, particularly, Section 6(b)(5) of the Act.[24] Specifically, the Commission believes the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to protect investors and the public interest.

Although all options exchanges currently have a uniform 5:30 p.m. (E.S.T.) Exercise Cut-Off Time on Expiration Fridays for expiring equity options, the OCC's rules permit the OCC to accept exercise notices for expiring equity options from clearing firms until 12:00 a.m. (E.S.T.) on the expiration date (*i.e.*, the Saturday after an Expiration Friday). This additional time within which to receive exercise notices from clearing members was provided to accommodate corrections of mistakes made in good faith, trade reconciliations, and certain exceptional circumstances that affected a customer's ability to inform its brokerage firm or affected a firm's ability to receive final exercise decisions before the Exercise Cut-Off Time. Nevertheless, there have been situations where member organizations have either delayed making exercise decisions until after 5:30 p.m. (E.S.T.) on Expiration Friday in anticipation of the release of material news concerning a particular underlying company, or having made decisions prior to 5:30 p.m. (E.S.T.), changed these decisions based upon such material news.[25] In this regard, the Commission believes that it is appropriate for the Exchange to make it clear in its rules that the submission of a Contrary Exercise Advice on the basis of material information released after the Exercise Cut-Off Time will be

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contemplated by the revised rule does not serve to substitute as the effective exercise notice to the OCC for the exercise or non-exercise of expiring options.

[14] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. *See* OCC Rule 805.

[15] Even though this may be accomplished by submitting exercise decisions directly to the Exchange, the more likely manner of accomplishing this will be to submit the exercise decisions to the Exchange through C/MACS. Due to the burden that would be placed on members of having to manually process every exercise decision for delivery directly to the Exchange, the procedures and rules being approved herein will not be implemented by the Phlx until the OCC submits a written representation to the Commission that C/MACS has been modified as necessary, fully tested, and ready to go on-line, to allow members to submit Contrary Exercise Advices to the Exchange through C/MACS. This process is expected to be completed in time for the November 1994 expirations. Telephone conversation between Gerald O'Connell, First Vice President, Phlx, and Sharon Lawson, Assistant Director, OMS, Division, Commission, on September 16, 1994.

[16] The could happen where an underlying security is not traded on its primary market on the trading day immediately preceding an expiration date and, as a result, the OCC determines not to fix a closing price for that security. *See* OCC Rule 805(1).

[17] When the OCC waives the exercise-by-exception procedure, the OCC's rules require submission of an affirmative exercise notice for all exercises even in circumstances where a Contrary Exercise Advice is not required to be submitted to the Exchange. *See* Amendment No. 3, *supra* note 4.

[18] *Id.*

[19] *See* Amendment No. 2, *supra* note 4.

[20] *Id.*

[21] *Id.*

[22] The memorandum must also include the time when such final exercise decision was made or, in the case of a customer, was received.

[23] *See supra* note 10.

[24] 15 U.S.C. 78f(b)(5) (1988).

[25] *See, e.g., In re Farmers Group Stock Options Litigation*, Master File No. 88–4994 (E.D.Pa).

activity deemed inconsistent with just and equitable principles of trade.[26]

The Commission believes that the proposed exercise procedures should enhance the Exchange's ability to surveil for violations of Rule 1042 by providing an enhanced audit trail for identifying late exercises. Specifically, every time an exercise decision is made contrary to OCC Rule 805, a Contrary Exercise Advice must be filed with the Exchange, in addition to submitting an exercise instruction to a clearing member as is currently required.[27] Similarly, the proposal requires that documentation must be prepared and submitted to the proper options exchange whenever a late exercise decision is made in reliance on one of the exceptions to Rule 1042, with the burden of establishing the existence of the exception on the party submitting the Contrary Exercise Advice. The proposed rule change, therefore, should facilitate the Exchange's ability to monitor and enforce compliance with Rule 1042. Accordingly, because the proposed rule change significantly bolsters the Exchange's existing procedures regarding the exercise of expiring equity options and helps to ensure compliance with their rules, the Commission believes that the proposal is consistent with the Act.[28]

Even though the proposed rule change significantly improves the Exchange's audit trail with respect to late exercises, the Commission believes that the Exchange should continue to examine ways of ensuring compliance with the Exercise Cut-Off Time and the other requirements of Rule 1042.[29] Furthermore, the Commission also encourages the Exchange to review the permitted exceptions to Rule 1042 and consider ways of establishing parameters as to the extent of the exceptions.[30]

The Commission finds good cause for approving Amendment Nos. 1, 2, and 3 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, the Commission believes that Amendment Nos. 1, 2, and 3 to the proposal, as discussed above, clarify the application of the rule and may serve to minimize confusion and disputes between and among members and customers as to the application of this rule. Additionally, the original proposal was noticed for the full comment period without any comments being received by the Commission. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1, 2, and 3 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–93–37 and should be submitted by November 7, 1994.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[31] that the proposed rule change (File No. SR–Phlx–93–37), as amended, is hereby approved.[32]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25555 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[26] *See supra* note 11.

[27] *See supra* note 12.

[28] The Commission notes that the Phlx has represented that it will prepare (in cooperation with the other options exchanges) and distribute a notice to member organizations describing the new procedures set forth above, and notifying member organizations as to when the new procedures will be fully in effect. *See supra* notes 5 and 15.

[29] For example, the Phlx may wish to consider adopting additional penalties in those situations where a member organization is unable to establish the existence of one of the exceptions to Rule 1042 for a particular trade or trades.

[30] For example, the Exchange may want to define expressly in the rule the circumstances that qualify for a good faith exception.

[31] 15 U.S.C. 78s(b)(2) (1982).

[32] The Commission notes, however, that the proposed rule change will not be implemented until the Commission receives certain written representations from the OCC regarding the operational status of C/MACS. *See supra* note 15.

[33] 17 CFR 200.30–3(a)(12) (1993).

[Investment Company Act Release No. 20607; International Series Release No. 728; 812–9194]

Chung Khiaw Bank, Ltd.; Notice of Application

October 7, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Chung Khiaw Bank, Ltd. ("CKB").

RELEVANT 1940 ACT SECTION: Exemption requested under section 6(c) from the provisions of section 17(f).

SUMMARY OF APPLICATION: CKB seeks an order exempting (i) CKB, (ii) any management investment company registered under the Act other than an investment company registered under section 7(d) of the Act ("Investment Company"), and (iii) any custodian for such Investment Company, from the provisions of section 17(f) of the Act to the extent necessary to permit such Investment Companies or their custodians, and CKB, as custodian or subcustodian, to maintain foreign securities, cash, and cash equivalents with Chung Khiaw Bank (Malaysia) Bhd. ("CKB-Malaysia").

FILING DATE: The application was filed on August 22, 1994 and amended on September 26, 1994. By supplemental letter dated October 7, 1994, counsel, on behalf of CKB, agreed to file an amendment during the notice period to make certain technical changes. This notice reflects the changes that will be made in the amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 1, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. CKB, 80 Raffles Place #04–00, UOB Plaza, Singapore 0104.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, (202) 942–0582, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. CKB is a company organized and existing under the laws of Singapore, and regulated as a banking institution by the Monetary Authority of Singapore. At December 31, 1993, it had shareholders' equity in the approximate amount of U.S. $369,567,000.

2. CKB-Malaysia is a subsidiary of CKB. Until recently, CKB provided custody services for Investment Companies holding Malaysian securities in its branches in Malaysia. A recently adopted Malaysian law requires banking institutions operating in Malaysia to be locally incorporated. To comply with this legislation, CKB transferred substantially all of the assets, liabilities, and personnel of its Malaysian branches to CKB-Malaysia. CKB-Malaysia is regulated as a banking institution under Malaysian law by Bank Negara Malaysia, the Central Bank of Malaysia. As of June 1, 1994, the shareholders' equity of CKB-Malaysia was approximately U.S. $100 million.

Applicant's Legal Conclusions

1. Section 17(f) requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including "banks" having at all times an aggregate capital, surplus and undivided profits of at least $500,000. Section 2(a)(5) defines "bank" to include (i) A banking institution organized under the laws of the United States, (ii) a member bank of the Federal Reserve System, and (iii) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the Act.

2. Rule 17f–5 provides that an Investment Company may place and maintain in the care of an "eligible foreign custodian" the Investment Company's foreign securities, cash, and cash equivalents in amounts reasonably necessary to effect the Investment Company's foreign securities transactions. The term "eligible foreign custodian" is defined in rule 17f–5(c)(2) to include a foreign bank that is regulated as such by the government (or an agency thereof) of the country where the bank is organized and that has shareholders' equity in excess of U.S. $200,000,000.

3. CKB meets the requirements for Eligible Foreign Custodian since it has shareholders' equity well in excess of U.S. $200,000,000, is organized and existing under the laws of a country other than the United States (Singapore) and is regulated as a bank under the laws of Singapore.

4. CKB-Malaysia also satisfies the requirements of rule 17f–5 insofar as it is a banking institution incorporated or organized under the laws of a country other than the United States and is regulated as such by that country's government or an agency thereof. CKB-Malaysia, with shareholder's equity of approximately $100 million, however, does not meet the minimum shareholders' equity requirement of rule 17f–5.

5. CKB seeks an order under section 6(c) exempting (i) CKB, (ii) any Investment Company and (iii) any custodian for such Investment Company from the provisions of section 17(f) of the Act to permit the deposit and custody of Foreign Securities (as defined below), cash, and cash equivalents in Malaysia with CKB-Malaysia. "Foreign Securities" includes (i) Securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country and (ii) securities issued or guaranteed by the government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States. Foreign Securities, cash, and cash equivalents are defined collectively as "Assets."

6. CKB represents that CKB-Malaysia is well-qualified to provide custodial services for Investment Company Assets. As the successor to the business of CKB's Malaysia branches, CKB-Malaysia subsumed the personnel and functions of those branches. CKB represents that, under the foreign custody arrangements proposed above, the protection afforded the assets of Investment Companies held by CKB-Malaysia would not be diminished from the protection afforded by rule 17f–5 if the assets were held in the direct custody of CKB.

Applicant's Conditions

CKB agrees that the order of the Commission granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed with respect to CKB-Malaysia will satisfy the requirements of rule 17f–5 in all respects other than with regard to the shareholders' equity of CKB-Malaysia.

2. Assets held in custody for U.S. management investment companies or their custodians will be maintained in CBK-Malaysia only in accordance with an agreement ("Delegation Agreement") required to remain in effect at all times during which CKB-Malaysia fails to satisfy all the requirements of rule 17f–5 pursuant to which CKB would undertake to provide specified custodial or subcustodial services and delegate to CKB-Malaysia such of CKB's duties and obligations as would be necessary to permit CKB-Malaysia to hold in custody in Malaysia Assets of U.S. investment companies. The Delegation Agreement among CKB, CKB-Malaysia, and a U.S. investment company or its custodian would further provide that CKB's delegation of duties to CKB-Malaysia would not relieve CKB of any responsibility to a U.S. investment company for which CKB serves as custodian or to a custodian for which CKB serves as a subcustodian for any loss due to such delegation, except such loss as may result from political risk (e.g., exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife, or armed hostilities) or other risks of loss (excluding bankruptcy or insolvency of CKB-Malaysia) for which neither CKB nor CKB-Malaysia would be liable under rule 17f–5 (e.g., despite the exercise of reasonable care, acts of God, and the like).

3. CKB currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f–5(c)(2)(i).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25558 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20609; No. 812–9102]

Jefferson-Pilot Life Insurance Company, et al.

October 7, 1994.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Jefferson-Pilot Life Insurance Company ("Jefferson-Pilot"), Jefferson-Pilot Separate Account A ("Separate Account"), Any Other Separate Account Established by Jefferson-Pilot in the Future to Support Certain Variable Annuity Contracts Offered by Jefferson-Pilot that are Materially Similar to Those Offered by the Separate Account ("Other Separate Accounts"), and Jefferson-Pilot Investor Services, Inc. ("J–P Services").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction from the assets of the Separate Account of a mortality and expense risk charge in connection with the offer and sale of certain variable annuity contracts offered by Jefferson-Pilot.

FILING DATE: The application was filed on July 1, 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 Commission's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 1, 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 Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o J. Gregory Poole, Esq., Jefferson-Pilot Life Insurance Company, 100 North Greene Street, Greensboro, North Carolina 27401; and Joan E. Boros, Esq. and Jane A. Kanter, Esq., Katten, Muchin, Zavis & Dombroff, 1025 Thomas Jefferson Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Jefferson-Pilot is a stock life insurance company. Jefferson-Pilot is the sponsor and depositor of the Separate Account and will be the sponsor and depositor of one or more Other Separate Accounts that it may establish in the future.

2. The Separate Account, a separate account of Jefferson-Pilot, is registered under the 1940 Act as a unit investment trust. The Separate Account currently is used to fund certain individual variable annuity contracts ("contracts"), and will be used in the future to fund certain additional variable annuity contracts that are materially similar ("Other Contracts"), offered by Jefferson Pilot (Collectively, "Contracts"). The Separate Account has filed a registration statement on Form N–4 to register the Contracts as securities under the Securities Act of 1933 ("1933 Act"). Registration statements will be filed under the 1933 Act for any Other Contracts offered in the future by Jefferson-Pilot.

The Separate Account currently consists of nine sub-accounts ("Subaccounts"), of which eight are available under the Contracts.[1] Two of the available Subaccounts invest in shares of mutual funds ("JP Funds") organized by Jefferson-Pilot Corporation as diversified, open-end management investment companies registered under the 1940 Act and those shares are registered as securities under the 1933 Act. The remaining six available Subaccounts invest solely in shares of a corresponding portfolio of the Variable Insurance Products fund ("Trust") or the Variable Insurance Products Fund II ("Trust II") (collectively, "Trusts"). The Trusts are diversified, open-end management investment companies of the series type that are registered under the 1940 Act and whose shares are registered under the 1933 Act. Jefferson-Pilot may determine to create additional Subaccount(s) of the Separate Account to invest in any additional mutual fund(s) that may now or in the future be available. Similarly, Subaccounts and/or funds may be combined or eliminated from time-to-time.

3. JP Investment Management Company, a wholly-owned subsidiary of Jefferson-Pilot Corporation, is the investment adviser for the JP funds. Fidelity Management & Research Company, a nonaffiliate, is the investment adviser for the Trusts.

4. Investor Services, a wholly-owned subsidiary of JP Corporation, will be the principal underwriter of the Contracts and may, in the future, act as principal underwriter for any other Contracts offered by Jefferson-Pilot. Investor Services is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts are flexible premium variable annuity contracts offered to individuals in connection with either nontax qualified plans or under plans qualified for federal income tax advantages under the Internal Revenue Code of 1986, as amended. The Contracts include the Alpha Account Contract and the Alpha Flex Account Contract, each of which permits premiums to vary in amount and frequency but require certain minimum initial premium payments and additional payments. The Contracts further provide for accumulation for premium payments before retirement, and the receipt of annuity payments after retirement, on a fixed basis, or on a variable basis, through use of the Separate Account.

The Contracts also provide a death benefit that is the greatest of: (1) Purchase payments made (less partial withdrawals and any surrender and partial withdrawal transaction charges); (2) Accumulation Value at the end of the valuation period; and (3) the "step-up" death benefit,[2] plus purchase payments made, less withdrawals and any surrender or withdrawal charges taken since the last "step-up" death benefit anniversary. The "basic" death

[1] The eight available Subaccounts include: (1) JP Capital Appreciation Fund, Inc.; (2) JP Investment Grade Bond Fund, Inc.; (3) CIPF Money Market Portfolio; (4) VIPF–II Asset Manager Portfolio; (5) VIPF Equity-Income Portfolio; (6) VIPF High Income Portfolio; (7) VIPF Growth Portfolio; and (8) VIPF Overseas Portfolio. Certain Subaccounts are subdivided further into sub-Subaccounts reflecting certain differences in unit values attributable to prior tax law provisions applicable to previously issued qualified and non-qualified Contracts.

[2] The step-up death benefit is the initial purchase payment. At each step-up death benefit anniversary, the current Accumulation Value is compared to the prior determination of the step-up benefit, increased by purchase payments made and reduced by partial withdrawals and any surrender and partial withdrawal transaction charges taken since that anniversary. The greater of these becomes the new step-up benefit. The step-up anniversaries are (i) With respect to the Alpha Account Contract, the Contract date and every sixth Contract anniversary thereafter, and (ii) with respect to the Alpha Flex Account Contract, the Contract date and every eighth Contract anniversary thereafter; provided, however, the step-up death benefit will no longer increase once the Annuitant reaches age 75.

benefit is equal to the Accumulation Value, or to the sum of the purchase payments made less partial withdrawals and any surrender and partial withdrawal transaction charges taken. The death benefit in excess of the "basic" death benefit and the "step-up" death benefit, constitutes the "step-up" death benefit.

6. No sales charges are deducted from premium payments under the Contracts. However, a contingent deferred sales charge ("CDSC") will be assessed if the Contract is surrendered or partial withdrawals exceeding certain amounts are taken during (i) The six-year period from the date purchase payments are received and accepted, with respect to the Alpha Account Contract, and (ii) the eight-year period from the date purchase payments are received and accepted, with respect to the Alpha Flex Account Contract. With respect to the Alpha Account Contract, the maximum CDSC imposed is 6% of the amount withdrawn during the first two Contract years, scaled downward until the seventh Contract Year when there will be no charge. With respect to the Alpha Flex Account Contract, the maximum CDSC imposed is 8% of the amount withdrawn in the first Contract Year, scaled downward until the ninth Contract year, when there will be no charge. After the first Contract year, a Contract owner may withdraw once each Contract year 10% of the Accumulation Value as of the last Contract anniversary as well as purchase payments held beyond the applicable CDSC period, without the assessment of a CDSC. In no event will the CDSC under either Contract exceed 9% of purchase payments.

Proceeds from the CDSC may not cover the expected costs of distributing the Contracts. Any shortfall will be recovered from Jefferson-Pilot's general assets, which may include revenues from the mortality and expense risk charge deducted from the Separate Account.

7. Various fees and expenses are deducted under the Contracts and the Separate Account. A charge may be deducted for premium taxes when annuity payments begin or from purchase payments, as required by the particular jurisdiction. Applicable premium taxes depend on the payor's then current place of residence and generally range from 0% to 5.0% of purchase payments or the amount annuitized. Jefferson-Pilot represents that the amount that it will recover for premium taxes will not be greater than the amount of premium taxes required to be paid.

8. The administrative charges to be assessed include (i) An Annual Contract Fee of $35 per Contract year during the Accumulation Period only, and (ii) an Administrative Expense Fee equal to an annual rate of .15% of the assets of the Separate Account during the Accumulation and the Annuity Periods. Jefferson-Pilot guarantees that it will not raise these administrative charges for the duration of the Contracts. Jefferson-Pilot also represents that it does not expect that the total revenues from the administrative charges will be greater than the total expected cost of administering the Contracts, on average, excluding distribution costs, over the period that the Contracts are in force.

9. There will be a charge of $25 for each transfer after the first twelve transfers in each Contract year prior to the Annuity Date and for each transfer after the first four transfers after the Annuity Date. Jefferson-Pilot does not include periodic automatic transfers made under the Dollar Cost Averaging Program when calculating the free transfers that may be made during the Accumulation Period. Jefferson-Pilot represents that it does not expect that the total revenues from the excess transfer charge will be greater than the total expected cost of administering transfers, on average, over the period that the Contracts are in force.

10. A daily charge equal to an annual rate of 1.25% of the value of the net assets in each Subaccount attributable to the Contracts will be imposed to compensate Jefferson-Pilot for bearing certain mortality and expense risks it assumes in offering and administering the Contracts and in operating the Separate Account. Of this amount, .65% is attributable to mortality risks, and .60% is attributable to expense risks. The charge for mortality and expenses risks will be assessed during the Accumulation Period and the Annuity Period. The aggregate charge is guaranteed by Jefferson-Pilot not to increase for the duration of the Contracts. The charge may be a source of profit for Jefferson-Pilot, which will be added to its general account assets and may be used for, among other things, the payment of distribution, sales and other expenses. Jefferson-Pilot currently anticipates a profit from this charge.

11. Jefferson Pilot assumes certain mortality risks under the Contracts. The mortality risk arises from Jefferson-Pilot's contractual obligation to make periodic annuity payments (determined in accordance with Jefferson-Pilot's annuity tables, which are based on the 1983 Table of Individual Annuity Mortality and, for variable annuity options, on an assumed investment rate of 3½%, and other Contract provisions) regardless of how long all annuitants or any individual annuitant lives. Contract owners thus are assured that neither annuitant's longevity nor an improvement in life expectancy generally (which is greater than expected) will adversely effect annuity payments the payee will receive under the Contracts. This eliminates the risk of outliving the funds accumulated for retirement. Mortality risk also is assumed in connection with payment of the death benefit prior to the Annuity date because the death benefit guarantee could exceed the Account Value. Also, Jefferson-Pilot assumes a mortality risk arising from the fact that the Contract does not impose any surrender charge on the death benefits.

12. The expense risk assumed by Jefferson-Pilot is that its actual expenses in issuing and administering the Contracts and operating the Separate Account will exceed the amount recovered through the administrative charges, which are guaranteed not to increase for the life of the Contract.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request, under Section 6(c) of the 1940 Act, exemptions from Sections 26(a)(2) and 27(c)(2) to the extent necessary to permit the deduction from the assets of the Separate Account of the charge for mortality and expense risks. Applicants believe that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes

fairly intended by the policy and provisions of the 1940 Act.

4. Applicants submit that the relief requested with respect to any Other Contracts funded by the Separate Account or by any other separate account that is established by Jefferson-Pilot in the future to support materially similar contracts to those offered by the Separate Account, is appropriate in the public interest and consistent with the protection of investors and the purposes of the 1940 Act, and, thus, is consistent with the standards of Section 6(c) of the 1940 Act. Without the requested relief for the Other Contracts, Applicants would have to repeatedly request and obtain exemptive relief which would present no issues under the 1940 Act that have not already been addressed in this Application. Eliminating redundant exemptive applications would reduce administrative expenses and maximize the efficient use of resources, thus, promoting competitiveness in the variable annuity market. Applicants represents that the delay and expense of repetitive exemptive applications would impair Jefferson-Pilot's ability to effectively take advantage of business opportunities as they arise, would deny investors any benefit or additional protection, and would disadvantage investors as a result of increased overhead costs. Applicants thus believe that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants contend that Jefferson-Pilot is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the mortality and expense risk charge is consistent with the protection of investors because it is a reasonable and proper insurance charge. The charge is a reasonable charge to compensate Jefferson-Pilot for the risks that: (a) Annuitants under the Contract will live longer individually or as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; (b) the Account Value will be less than the death benefit; and (c) administrative expenses will be greater than amounts derived from the administrative charges.

6. Applicants represent that the 1.25% mortality and expense risk charge under the Contracts is within the range of industry practice for comparable annuity products. This determination is based upon Applicants' analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels and benefits provided, the existence if expense charge guarantees and guaranteed annuity rates. Applicants represent that Jefferson-Pilot undertakes to maintain at its home office, available to the Commission upon request, a memorandum setting forth in detail the products analyzed, and the results of the analysis, in making the foregoing determination.[3]

7. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be available to pay distribution expenses. Jefferson-Pilot has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Account and the Contract owners. The basis for that conclusion is set forth in a memorandum which will be maintained by Jefferson-Pilot at its administrative offices and will be available to the Commission.

8. Applicants also represents that the Separate Account will invest only in open-end management investment companies that undertake, in the event that such company should adopt a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not "interested persons" of the company, formulate and approve any such plan.

Conclusion

For the reasons set forth above, Applicants represents 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 policy and provisions of the 1940 Act. Accordingly, Applicants request relief from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the assessment and deduction of the mortality and expense risk charge under the Contracts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25605 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[3] Applicants represent that they will amend the application during the notice period to make this representation.

[Rel. No. IC–20606; 811–5973]

Money Market Portfolio; Notice of Application

October 7, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Money Market Portfolio.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 3, 1994 and amended on October 5, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 1, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 6 St. James Avenue, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a common law trust under the laws of New York. On December 11, 1989, applicant registered under the Act as an investment company. Applicant has not filed a registration statement to register its shares under the Securities Act of 1933.

2. Yankee Funds, a registered investment company was composed of

several investment portfolios, including a money market portfolio (the "Yankee Money Market Fund"). The Yankee Money Market Fund invested in applicant and owned substantially all of its units of beneficial interest. The three holders of beneficial interest in the Yankee Money Market Fund gave notice by May 10, 1993, that they wanted to redeem their entire holdings. On May 10, 1993, to satisfy the redemption request, a complete redemption distribution totalling $65,585,130 was paid by applicant to the Yankee Money Market Fund in complete liquidation of its interest. On February 22, 1993, the board of trustees of applicant authorized the actions necessary to effect the termination of applicant as an investment company.

3. The expenses applicant incurred in connection with the liquidation included professional and custodial fees and expenses totalling $30,750. Certain persons connected to applicant, including its investment adviser, agreed to assume applicant's deferred unamortized organization expenses as of October 31, 1991. Because these persons assumed the organizational expenses, applicant had no outstanding deferred organizational expenses upon liquidation.

4. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

5. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25559 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26140]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 7, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 31, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy Initiatives, Inc., et al. (70–8369)

Energy Initiatives, Inc. ("EII"), One Upper Pond Road, Parsippany, New Jersey 07054, a nonutility subsidiary of General Portfolios Corporation ("GPC"), a nonutility subsidiary of General Public Utilities Corporation ("GPU"), and GPU, 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, have filed a post-effective amendment under Sections 6(a), 7, 9(a), 10 and 12(b) and Rules 45, 53 and 54 to their application-declaration filed under Sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 45, 51, 90 and 91 thereunder.

By order dated May 17, 1994 (HCAR No. 26053) ("May 1994 Order"), the following proposals were authorized: (i) for EII (a) to acquire through December 31, 1995 all of the stock of North Canadian Power Inc. ("NCP"), a company engaged exclusively in the business of owning or leasing and operating qualifying cogeneration facilities ("QFs"), as defined in the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"), and developing other QFs and electric wholesale generators ("EWGs"), as defined in Section 32 of the Act, for a total of $72 million ("Purchase Price") and (b) to enter into assumption agreements obligating EII to make payments up to $25 million; and, (ii) for GPU (a) to make up to $72 million in capital contributions or loans to EII through December 31, 1995 to pay the Purchase Price and (b) to assume certain guarantees associated with QFs and/or unconditionally guaranty EII's obligations and to make additional capital contributions up to a maximum aggregate amount of $25 million; and, (iii) for EII to issue, sell and renew through December 31, 2004 notes in an aggregate principal amount of $25 million, and for GPU to unconditionally guaranty the notes and EII's other related obligations. The May 1994 Order reserved jurisdiction over EII's proposals to (i) issue and sell $2.5 million of unsecured promissory notes to banks and accept guarantees or supporting agreements from GPU, and (ii) provide services to the QF projects as managing general partner under an exception to Section 13 under the Act.

It is stated that, on June 13, 1994, EII acquired the common stock of NCP pursuant to the May 1994 Order. At the closing, GPU made a cash capital contribution to EII in order to fund the amount of the purchase price then being paid ($53,517,590). The balance of the purchase price (approximately $20 million) remains deposited in escrow pending receipt of required third party consents. Since the acquisition, EII and GPU have reached an agreement in principal on the terms and conditions of a loan agreement ("Loan Agreement") with a group of lenders for whom Citibank, N.A. would initially act as agent.

EII and GPU now request the authority to enter into the Loan Agreement and a support agreement ("Support Agreement"). The Loan Agreement would permit borrowings by EII in an aggregate amount not to exceed $30 million. Notes issued under the Loan Agreement would bear interest at either (i) the higher of Citibank, N.A.'s prime rate and the Federal Funds Rate plus 50 basis points ("Alternative Base Rate"), or (ii) the interest rate per annum at which deposits in U.S. dollars are offered by the principal office of the reference bank (initially, Citibank, N.A.) in London, England to prime banks in the London interbank market, plus additional costs for reserves, if applicable ("Eurodollar Rate") plus 50 basis points.

Issuance of the Notes would be subject to certain conditions, and the Notes would be subject to acceleration under certain circumstances. Borrowings bearing interest at the Alternate Base Rate would be prepayable at any time without penalty. Borrowings bearing interest at the Eurodollar Rate would also be prepayable, subject to payment of certain costs incurred by the lenders in connection with the prepayment.

EII would agree to pay the lenders under the Loan Agreement a facility fee of 37.5 basis points per annum and a one-time commitment fee payable at the initial closing of five basis points.

EII and GPU also propose that the Loan Agreement will include a letter of credit ("L/C") facility. Pursuant to this facility, EII would be able to request any lender which is a party to the Loan Agreement to issue an L/C, in a maximum aggregate face amount for all L/Cs outstanding of up to $15 million. The lender would, however, have the discretion not to issue an L/C. The aggregate amount that EII could borrow under the Loan Agreement would be reduced by the face amount of the outstanding L/Cs. Drawings on an L/C would initially bear interest at the Alternate Base Rate. If EII elects not to immediately reimburse the issuing bank, the drawing would be treated as a borrowing under the Loan Agreement. EII would be required to pay the issuing bank a letter of credit fee of .50% per annum on the face amount of the L/C.

The Loan Agreement would have an initial term of three years, subject to extension for one year in the sole discretion of the lenders. Upon termination, EII would be permitted to repay any then outstanding loans over a two year period in quarterly installments, but EII would not be permitted to re-borrow during such period.

To induce the lenders to enter into the Loan Agreement, GPU proposes to deliver to the lenders a Support Agreement. Among other things, that agreement would provide that GPU would maintain 100% ownership of EII and would use its best efforts to arrange for repayment of the Notes when they become due and payable.

Since substantially all of the NCP purchase price has heretofore been funded with a cash capital contribution from GPU, EII now proposes to use the proceeds of the sale of the Notes from time to time in its general business activities, and, in particular: (i) to fund preliminary project development and administrative activities in connection with EII's investments in QFs and small power production facilities, and defined in PURPA, and EWGs and foreign utility companies ("FUCOs"), as defined in Section 33 of the Act, as may be authorized in File No. 70–7727; (ii) to acquire securities or other interests in QFs, EWGs or FUCOs, provided, however, that EII will not, without prior Commission authorization, acquire (a) an interest in a QF (which is not also an LWG) or (b) except as may be permitted by Commission rule, regulation or order, an indirect ownership interest in a FUCO (which is not also an EWG); and (iii) to reimburse GPU for a portion of its funding of the NCP purchase price.

EUA Cogenex Corporation (70–8473)

EUA Cogenex Corporation ("Cogenex"), a wholly-owned subsidiary of Eastern Utilities Associates ("EUA"), both at P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed an application-declaration under Sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 43, 45, 46 and 54 thereunder.

Cogenex now requests authorization to form and acquire a subsidiary company for the purpose of acquiring certain assets of a company engaged in related business activities and funding those activities. Specifically, authorization is now sought for: (1) Cogenex to form and acquire a wholly-owned subsidiary to be named EUA Citizens Conservation Services, Inc. ("CCS"); (2) for CCS to issue common stock to Cogenex; (3) for Cogenex to acquire such common stock from CCS; (4) for Cogenex to make loans to CCS; (5) for CCS to issue notes to Cogenex to evidence such loans; (6) for CCS to issue preferred stock; (7) for CCS to redeem such preferred stock pursuant to the terms thereof; (8) for CCS to acquire certain assets of Citizens Conservation Corporation ("CCC"), a nonaffiliated,tax-exempt Massachusetts corporation; and, (9) for CCS to assume certain liabilities from CCC.

It is stated that CCS will primarily specialize in energy services for residential multi-family housing. The services will include energy audits, technical assistance to owners/residents regarding energy costs and end uses, assistance with financing projects, and energy performance contracting similar to the services Cogenex currently provides to its commercial and institutional customers. CCS will also contract directly with utilities to implement residential low-income multi-family demand-side management programs and will provide program design consultation to utilities, governments and private entities.

The initial authorized capitalization of CCS shall be 200,000 shares of common stock, $.01 par value per share, and 7,500 shares of preferred stock, $.01 par value ("Preferred Stock").

Cogenex requests authorization: for CCS to issue and for Cogenex to acquire 10,000 shares of CCS' common stock at a purchase price of $100; and for CCS to issue to CCC 7,500 shares of the Preferred Stock. The Preferred Stock shall be issued to CCC in exchange for, and Cogenex requests authority for: the transfer of certain assets of CCC to CCS, including the rights to prospective business opportunities of CCC, and the rights to contracts to which CCC is a party, pursuant to a memorandum of understanding between Cogenex and CCC dated September 2, 1994 (regarding the proposed acquisition of certain of CCC's assets), and the goodwill associated with such assets ("Assets"); and CCC entering into a noncompete and cooperation agreement with CCS. Cogenex also requests authority for CCS to assume the obligations of CCC with respect to the Assets.

It is stated that the acquisition of the Assets will allow Cogenex to indirectly expand its customer base by, among other things, entering into the public housing sector and will provide the public housing sector with the benefit of Cogenex's experience and expertise in energy conservation and management. Cogenex anticipates a synergistic relationship with CCS whereby CCS will provide a new outlet for the services and products of EUA Day and EUA NOVA (both divisions of Cogenex) and for the engineering services of Cogenex.

The Preferred Stock shall be non-redeemable until January 1, 2002 or upon the seventh anniversary of the execution of the definitive agreement ("Definitive Agreement") between Cogenex, CCS and CCC (which shall fully set forth the terms and conditions of CCS' acquisition of CCC's Assets), whichever is later. Upon such date, the Preferred Stock may be redeemed at Cogenex's sole discretion at a redemption price equal to $100 per share plus then-accrued dividends, if any, plus an additional amount, if any, determined in accordance with a specific formula. The Preferred Stock shall be entitled to an annual dividend per share at a rate equal to 33% of the net income of CCS divided by 7,500. The Preferred Stock dividends shall be paid annually when and as declared by the board of directors of CCS, but not later than June 30th of the calendar year in which they are to be paid. The first such year for which dividends shall be paid shall be the year ending December 31, 1995. Dividends shall be noncumulative and shall be paid only from current earnings, if any.

Authorization is also requested: (i) for Cogenex to make loans to CCS in an aggregate amount not to exceed $5 million outstanding at any one time for the purpose of funding the development of projects ("Development Loans"); (ii) for CCS to issue notes to Cogenex for the Development Loans; (iii) for Cogenex to make loans to CCS in an aggregate amount not to exceed $2.5 million outstanding at any one time for working capital purposes ("Working Capital Loans"); and (ii) for CCS to issue notes

to Cogenex for the Working Capital Loans. The aggregate amount outstanding at any one time for the Development Loans and the Working Capital Loans combined shall not exceed $7.5 million.

Provision of credit shall be made at Cogenex's sole discretion and shall be provided upon such terms, conditions and rates as is customarily provided to affiliates of Cogenex. The Development Loans, and the Working Capital Loans shall (i) mature within twelve months of their issuance and be renewable from time to time (ii) be prepayable in whole or in part without penalty and (iii) shall earn interest at a rate equal to the lesser of Cogenex's short-term borrowing costs or the prime rate on the date of issuance. The source of this financing will be short-term borrowings by Cogenex under the EUA system's existing bank lines of credit, internally generated cash, repayment of funds advanced to CCS, proceeds of future long-term debt to be issued by Cogenex and/or purchases of stock, capital contributions, loans and/or advances by EUA previously authorized, or to be authorized, by the Commission. CCS shall repay the Development Loans and the Working Capital Loans from internally generated funds, permanent project financing and the issuance of additional notes for Development Loans and Working Capital Loans, as authorized under this application-declaration. CCS shall not incur any indebtedness in the form of permanent project financing, nor use the proceeds thereof for the purpose of repaying Cogenex, without first obtaining Commission authorization.

Cogenex is currently restricted to earning less than 50% of its revenues from outside New England and New York ("50% Restriction"). CCS' revenues will be subject to the 50% Restriction just like any other aspect of Cogenex's business (other than revenues from qualifying cogeneration facility projects, as defined in the Public Utility Regulatory Policies Act of 1978, as amended, and consulting revenues, which revenues are not included in the calculation for the 50% Restriction); however, Cogenex states that revenues received by CCS through the service agreement it will enter into with CCC will not be included in the calculation for the 50% Restriction.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25602 Filed 10–14–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0558]

MidMark Capital, L.P.; Notice of Issuance of a Small Business Investment Company License

On September 9, 1994, a notice was published in the **Federal Register** (59 FR 46695) stating that an application had been filed by MidMark Capital, L.P., 366 Southern Boulevard, Chatham, New Jersey, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment company (13 CFR 107.102 (1993)) for a license to operate as a small business investment company.

Interested parties were given until close of business on September 24, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0558 on September 26, 1994, to MidMark Capital, L.P. to operate as a small business investment company.

The Licensee has initial private capital of $10 million, and Mr. Denis Newman will manage the fund. United Jersey Bank holds approximately one-third of beneficial ownership of the Licensee; no other organization or individual owns more than ten percent of the Licensee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 7, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–25594 Filed 10–14–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 7, 1994

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49810.
Date filed: October 5, 1994.
Parties: Members of the International Air Transport Association.
Subject: TC2 Reso/P 1654 dated October 4, 1994 r–1, TC2 Reso/P 1655 dated October 4, 1994 r–2 to r–7, Expedited Within Africa Resos.
Proposed Effective Date: Expedited November 30/December 1, 1994.
Docket Number: 49811.
Date filed: October 5, 1994.
Parties: Members of the International Air Transport Association.
Subject: TC31 Reso/P 1042 dated October 4, 1994 r–1, TC31 Reso/P 1043 dated October 4, 1994 r–2, TC31 Reso/P 1049 dated October 4, 1994 r–3, Expedited TC31 North & Central Pacific Resos.
Proposed Effective Date: Expedited Dec. 1, 1994/Jan. 1, 1995.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 94–25608 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 7, 1994

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (see 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 42061.
Date filed: October 4, 1994.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 1, 1994.
Description: Amendment No. 5 to Application of Malaysia Airlines, pursuant to 49 U.S.C. Section 41302, of the Act and Subpart Q of the Regualtions, for issuance of a foreign air carrier permit originally filed in this docket on March 23, 1984.

Docket Number: 49809.
Date filed: October 4, 1994.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 1, 1994.
Description: Application of Globair Corp., pursuant to Section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Globair to provide scheduled interstate and overseas air transportation of persons, property

and mail. Upon certification, Globair intends to provide service between New York and Miami.

Docket Number: 49813.
Date filed: October 6, 1994.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 3, 1994.
Description: Application of Navcom Aviation, Inc., and UltrAir, Inc., pursuant to Section 41105 of the Act and Subpart Q of the Regulations, submits this request for approval of the transfer of UltrAir's Certificates of Public Convenience and Necessity, which were recently sold to NavCom, together with the airline operational assets of UltrAir.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 94–25609 Filed 10–14–94; 8:45 am]
BILLING CODE 4910–62–P

Federal Aviation Administration

Intent To Rule on Application To Impose and Use Passenger Facility Charge (PFC) at Rock Springs-Sweetwater County Airport, Rock Springs, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Rock Springs-Sweetwater County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14CFR158).

DATES: Comments must be received on or before November 16, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, 601 Lind Avenue SW, Suite 540, Renton, WA 98055–4056 and Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary D. Valentine, Airport Manager, Rock Springs-Sweetwater County Airport, Rock Springs, Wyoming, at the following address: P.O. Box 1965, Rock Springs, Wyoming 82902–1965.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Rock Springs-Sweetwater County Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Don O'Brien, (303) 286–5549; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, Colorado 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Rock Springs-Sweetwater County Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 6, 1994, the FAA determined that the application to impose and use revenue from a PFC submitted by Rock Springs-Sweetwater County Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 5, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.
Proposed charge effective date: December 1, 1994.
Proposed charge expiration date: December 31, 2001.
Total estimated PFC revenues: $332,500.
Brief description of proposed project: Replace Terminal. Building Roof; Acquire Lift Device for Handicapped Passengers.
Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Rock Springs-Sweetwater County Airport.

Issued in Renton, Washington on October 6, 1994.

David A. Field,
Acting Manager, Airports Division, Northwest Mountain Region.
[FR Doc. 94–25565 Filed 10–14–94; 8:45 am]
BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 1994, there were 13 applications and one amendment approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Public Law 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: County of Tompkins, Ithaca, New York.
Application Number: 94–02–C–00–ITH.
Application Type: Impose and use PFC revenue.
PFC Level: $3,00.
Total Approved Net PFC Revenue: $3,244,167.
Charge Effective Date: January 1, 1993.
Estimated Charge Expiration Date: January 1, 2004.
Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.
Determination: Approved. Based on information submitted in the County of Tompkins application, the FAA has determined that the proposed class accounts for less than 1 percent of Tompkins County Airport's total annual enplanements.
Brief Description of Project Approved To Use PFC Revenue: Construction of new terminal.
Brief Description of Projects Approved for Collection and Use: Extension to runway 14/32, New snow plow, Aircraft rescue and fire fighting (ARFF) building extension Overlay runway 14/32..
Brief Description of Project Withdrawn: Land acquisition.
Determination: The County of Tompkin withdrew this project from the application by letter dated June 5, 1994.
Decision Date: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (516) 295–1169.

Public Agency: The City of Chicago, Chicago, Illinois.
Application Number: 94–02–U–00–MDW.
Application Type: Use PFC revenue.
PFC Level: $3.00.
Total Approved Net Use PFC Revenue: $79,920,958.
Charge Effective Date: September 1, 1993.
Estimated Charge Expiration Date: August 1, 2001.
Class of Air Carriers Not Required To Collect PFC's: The City of Chicago has previously been approved to exclude air taxi operators in the FAA's June 28, 1993, Record of Decision.
Determination: No change from previously approved application.
Brief Description of Projects Approved for Use: Airport maintenance complex, Terminal/concourse emergency power system.
Decision Date: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Louis Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: Greater Peoria Airport Authority, Peoria, Illinois.
Application Number: 94–01–C–00–PIA.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $4,083,195.
Charge Effective Date: December 1, 1994.
Estimated Charge Expiration Date: July 1, 2001.
Class of Air Carriers Not Required To Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use: Access control and security system, Sprinkler and fire control suppression and monitoring system, Commonwealth-Edison power lines relocation, Rosenbohm Pond acquisition, Security fence installation, Airfield signage installation, Noise mitigation—St. John's Church, Glide slope protection and noise mitigation—Keystone land acquisition, Purchase 1,500-gallon fire truck, Purchase snow sweeper/broom truck, Air carrier passenger lift device.
Brief Description of Project Partially Approved For Collection and Use: Runway 4/22 extension, (phase I).
Determination: Partially approved. The Greater Peoria Airport Authority requested reimbursement of the local share for the entire Airport Improvement Program (AIP) grant which included funding for airfield signage and security fencing. The FAA considers these items to be separate projects for PFC purposes. The project description in the PFC application is limited to the runway 4/22 extension. Therefore, the FAA's approval is limited to the local share of the portion of the AIP grant attributable to the runway 4/22 extension.
Decision Date: September 8, 1994.

FOR FURTHER INFORMATION CONTACT: Louis Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: The City of Chicago, Chicago, Illinois.
Application Number: 94–02–U–000–ORD.
Application Type: Use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $503,462,261.
Charge Effective Date: September 1, 1993.
Estimated Charge Expiration Date: October 1, 1999.
Class of Air Carriers Not Required To Collect PFC'S: The City of Chicago has previously been approved to exclude air taxi operators in the FAA's June 28, 1993, Record of Decision.
Determination: No change from previously approved application.
Brief Description of Projects Approved For Use: ARFF burn pit, Hold pad-Scenic (new), Radio alarm call box, Roadway overlay-lower level, Permanent noise monitoring.
Decision Date: September 16, 1994.

FOR FURTHER INFORMATION CONTACT: Louis Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: Reading Regional Airport Authority, Reading, Pennsylvania.
Application Number: 94–01–C–00–RDG.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $600,750.
Charge Effective Date: December 1, 1994.
Estimated Charge Expiration Date: August 1, 1998.
Class of Air Carriers Not Required To Collect PFC'S: Part 135 on-demand air taxis.
Determination: Approved. Based on information submitted in the Reading Regional Airport Authority's application, the FAA has determined that the proposed class accounts for less than 1 percent of Reading Regional Airport's total annual enplanements.
Brief Description of Projects Approved For Collection and Use: Enclose boarding area.
Brief Description of Projects Approved For Collection: Construct terminal access road, phase 2.
Brief Description of Projects Partially Approved For Collection: Acquire a new ARFF vehicle.
Determination: Approved in part. The Reading Regional Airport is classified as an Index A airport under Part 139. Eligibility for ARFF vehicles at Index A airports is limited to one 1,000-gallon ARFF vehicle. The FAA's approval is limited to an Index A, 1000 gallon vehicle rather than the index B, 1,500 gallon vehicle requested by the Reading Regional Airport Authority.
Decision Date: September 16, 1994.

FOR FURTHER INFORMATION CONTACT: Lawrence Walsh, Harrisburg Airports District Office, (717) 975–3423.

Public Agency: City of Morgantown, Morgantown, West Virginia.
Application Number: 94–02–C–00–MGW.
Application Type: Impose and use PFC revenue.
PFC Level: $2.00
Total Approved Net PFC Revenue: $222,500.
Charge Effective Date: December 1, 1994.
Estimated Charge Expiration Date: December 1, 1999.
Class of Air Carriers Not Required To Collect PFC'S: None.
Brief Description of Projects Approved For Collection and Use: Reroof south terminal, Construct public facilities within north terminal (phase I), Purchase ARFF vehicle, Public parking expansion, Short term parking area, Sealcoat main aircraft parking apron, Construct public facilities at the north terminal (phase II).
Brief Description of Projects Approved For Collection: Rehabilitate taxiway A, Design parallel taxiway for runway 5/23, Purchase snow removal equipment, Construct facilities within the north terminal (phase III), Overlay taxiway A south, Construct parallel taxiway to runway 5/23.
Decision Date: September 16, 1994.

FOR FURTHER INFORMATION CONTACT: Elonze Turner, Beckley Airport District Office, (304) 252–6216.

Public Agency: Asheville Regional Airport Authority, Asheville, North Carolina.
Application Number: 94–01–C–00–AVL.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $4,909,314.
Charge Effective Date: December 1, 1994.
Estimated Charge Expiration Date: September 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators when enplaning revenue passengers in service and equipment reportable to FAA on FAA Form 1800–31.

Determination: Approved. Based on information submitted in the Asheville Regional Airport Authority's application, the FAA has determined that the proposed class accounts for less than 1 percent of Asheville Regional Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use: Terminal project, phase 3, Land acquisition, 28.18 acres for runway 16 protection zone, Land acquisition, 46.62 acres for development, Construct two new fixed base operators helipads, Master plan update, Install runway 16/34 centerline lights, Runway 34 extended safety area (ERSA), phase I, Security access control system, Rehabilitate ARFF vehicle, Runway 34 ERSA, phase 2, Land acquisition, runway 34 ERSA, ARFF building expansion, Taxiway signage upgrade, Widen parallel taxiway to runway 16/34, relocate taxiway edge lighting, mark parallel taxiway, Seal coat general aviation ramps, Expand maintenance building for storage of snow removal equipment, General access improvements, Acquire snow removal equipment, Non-destructive pavement evaluation and testing program, Resurface and grove runway 16/34, Concrete slab replacement and joint sealing, air carrier ramp, Resurface taxiway system, Purchase snow removal equipment, PFC project formulation costs and PFC administrative costs, PFC interest costs.

Brief Description of Project Partially Approved for Collection and Use: Install upgraded medium intensity taxiway lighting.

Determination: Approved in part. After submitting the PFC application, the Asheville Regional Airport Authority received an AIP grant for 90 percent of the project costs. Thereafter, the amount approved was reduced to the Asheville Regional Airport Authority's local share of the project costs.

Decision Date: September 19, 1994.

FOR FURTHER INFORMATION CONTACT: Tommy Roberts, Atlanta Airports District Office, (404) 994–5306.

Public Agency: Yakima Air Terminal Board, Yakima, Washington.

Application Number: 94–02–C–00–YKM.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $14,745.

Charge Effective Date for This Application: April 1, 1995.

Estimated Charge Expiration Date: June 1, 1995.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information submitted in the Yakima Air Terminal Board's application, the FAA has determined that the proposed class accounts for less than 1 percent of Yakima Air Terminal's total annual enplanements.

Brief Description of Project Approved for Collection and Use: Snow removal equipment.

Decision Date: September 22, 1994.

FOR FURTHER INFORMATION CONTACT: Renee Hall, Seattle Airports District Office, (206) 227–2662.

Public Agency: Town of Islip, Ronkonkoma, New York.

Application Number: 94–01–C–00–ISP.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $18,033,985.

Charge Effect Date: December 1, 1994.

Estimated Charge Expiration Date: August 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information submitted in the Town of Islip's application, the FAA has determined that the proposed class accounts for less than 1 percent of Long Island MacArthur Airport's (ISP) total annual enplanements.

Brief Description of Projects Approved for Collection and Use at Long Island MacArthur Airport (ISP)—Reimburse local share of AIP projects:

Perimeter fence and gate installation, Overlay south taxiway, Installation of airport security system, Purchase ARFF vehicle, Crack repair and surface treatment for runway 10/28, Completion of runway 6/24 extension (phase I), Overlay east taxiway and construct taxiway F, Terminal apron expansion (phase II), Completion of extension of runway 6/24 (phase II), Airfield signs and terminal hardstanding.

Part 150 noise program (1993–1998), Terminal renovation and expansion, Purchase snow removal broom, Purchase Halstead property, Purchase snow removal equipment, Parallel taxiway to runway 24 (phase I), Environmental assessment for runway 33L extension, Americans with Disabilities Act improvements, West Taxiway rehabilitation, Purchase two security vehicles, Parallel taxiway to runway 15R (phase II).

Brief Description of Project Approved for Collection at ISP and Use PFC Revenue at Bayport Aerodrome: Bayport Aerodrome runway widening.

Brief Description of Projects Approved for Collection at ISP: Extend runway 15R/33L, Concourse expansion (phase I), ARFF training facility.

Brief Description of Project Disapproved: West side road improvements.

Determination: Disapproved. Paragraph 553(c)(2) of FAA Order 5100.38A, AIP Handbook, states that AIP participation for roads serving solely industrial or nonaviation related areas or facilities are ineligible for AIP funding. The proposed road, as described in the Town of Islip's application, mainly serves the industrial area and the fuel farm. Access to the U.S. Customs aircraft hangar is incidental to the fuel farm. Fuel farms are not eligible in accordance with paragraph 301(b) and Appendix 2 of FAA Order 5100.38A; therefore, an access road to the fuel farm is not eligible.

Brief Description of Project Withdrawn: Runway 6/24 Cat II instrument landing system study.

Determination: The Town of Islip withdrew this project from the application by letter dated September 13, 1994.

Decision Date: September 23, 1994.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (718) 553–1818.

Public Agency: International Falls-Koochiching County Airport Commission, International Falls, Minnesota.

Application Number: 94–02–C–00–INL.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $243.537.

Charge Effective Date: December 1, 1994.

Estimated Charge Expiration Date: December 1, 1998.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information in the International Falls-Koochiching County Airport Commission's application, the FAA

has determined that the proposed class accounts for less than 1 percent of Falls International Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use: Bituminous pavement crack repair, Airfield guidance signs, BFC administration and costs reimbursement, Airfield pavement rehabilitation, Airport master plan update, Lift for mobility-impaired passengers.

Decision Date: September 23, 1994.

FOR FURTHER INFORMATION CONTACT: Franklin Benson, Minneapolis Airports District Office, (612) 725–4221.

Public Agency: Wichita Airport Authority, Wichita, Kansas.

Application Number: 94–01–C–00–ICT.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $4,259,535.

Charge Effective Date: December 1, 1994.

Estimated Charge Expiration Date: November 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use at Wichita Mid-Continent Airport (ICT): Taxiway reconstruction, Security access system, Airfield safety improvements, Planning study-airport master plan, Air carrier apron west reconstruction, Air Cargo apron construction, Terminal capacity improvements.

Brief Description of Projects Approved for Collection at ICT and Use PFC Revenue at Colonel James Jabara Airport: Airfield safety improvements, Planning study-airport master plan.

Decision Date: September 29, 1994.

FOR FURTHER INFORMATION CONTACT: Ellie Anderson, FAA Central Region Airports Division, (816) 426–7425.

Public Agency: Metropolitan Airport Authority of Rock Island County, Moline, Illinois.

Application Number: 94–01–C–00–MLI.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $11,582,995.

Charge Effective Date: December 1, 1994.

Estimated Charge Expiration Date: November 1, 2008.

Class of Air Carriers Not Required To Collect PFC's: Part 135 unscheduled air taxi/commercial operators.

Determination: Approved. Based on information submitted in the Metropolitan Airport authority of Rock Island County's application, the FAA has determined that the proposed class accounts for less than 1 percent of Quad City Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use: Environmental runway 9–27, PFC financing, Land reimbursement (IU–3(b), Extension of runway 9–27 (IU–3(c), Expansion of airfield maintenance building.

Reimbursement of the local share of AIP grants including: Rebuild ARFF vehicle, Purchase airfield operations/emergency communications system, Demolition of terminal annex (old terminal) building, Demolition of three units of T-hangars, Replacement of the concourse A ramp, Anti-skid friction treatment of runway 9–27, Purchase of an ARFF quick-response vehicle, Extension (1,000-foot) of runway 31 (phases I, II, III, and IV), Installation of standardized directional signage in the air operations areas, Rehabilitation of lighting on runways 9–27, 5–23, 13–31, and associated taxiways, Removal of trees, Strengthening north half of runway 13–31, Extension of taxiway Bravo.

Purchase snow removal equipment.

Brief Description of Projects Partially Approved for Collection and Use: Extension of runway 13–31.

Determination: Approved in part. The approved amount was reduced from that requested due to increased AIP funding for this project. Land reimbursement (IU–3(a).

Determination: Approved in part. Two of the parcels included in this project were not eligible for PFC reimbursement because the contracts or agreements to purchase these parcels were finalized prior to the November 5, 1990, enactment of the PFC statute. The approved amount was reduced accordingly. General aviation itinerant ramp replacement.

Determination: Approved in part. The approved amount was reduced due to an increase in AIP funding for the project.

Brief Description of Projects Approved for Collection North ramp replacement (phase V), Taxiways Delta, Echo, and Kilo improvements.

Decision Date: September 29, 1994.

FOR FURTHER INFORMATION CONTACT: Louis Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: Clearfield Jefferson Counties Regional Airport Authority, Falls Creek, Pennsylvania.

Application Number: 94–01–C–00–DUJ.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $200,300.

Charge Effective Date: December 1. 1994.

Estimated Charge Expiration Date: July 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the Clearfield-Jefferson Counties Regional Airport Authority's application, the FAA has determined that the proposed class accounts for less than 1 percent of DuBois-Jefferson County Airport's (DUJ) total annual enplanements.

Brief Description of Projects Approved for Collection and Use: Obstruction removal, Deicing pad, Parking lot expansion, Additional snow removal equipment, Expand sand storage building, Purchase additional land, Parallel taxiway to runway 7, Powered lift/stair device.

Brief Description of Projects Approved for Collection: Route 830 relocation, Sewage/water system, Emergency generator.

Brief Description of Project Disapproved: Non-directional beacon (NDB).

Determination: Disapproved. The Clearfield-Jefferson Counties Regional Airport Authority has not demonstrated that it can overcome those technical difficulties which led to the FAA's decommissioning of its NDB. In addition, the FAA is not aware of any strong desire by the aviation community to reestablish an NDB at DUJ. Therefore, the FAA is unable to conclude that this project will meet the requirements of section 158.15(a)

Decision Date: September 29, 1994.

FOR FURTHER INFORMATION CONTACT: Lawrence Walsh, Harrisburg Airports District Office, (717) 730–2830.

Amendments to PFC Approvals:

Amendment Number, City, State: 92–01–C–02–GPT Gulfport, MS.
Amendment Approved Date: 09/22/94.
Approved Net PFC Revenue: $390,595.
Amended Approved Net PFC Revenue: $1,079,995. Original Estimated Charge Exp. Date: 01/01/94. Amended Estimated Charge Exp. Date: 01/01/96.

Issued in Washington, DC. on October 7, 1994.

Donna Taylor,

Manager, Passenger Facility Charge Branch.

Cumulative List of PFC Applications Previously Approved

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
ALABAMA:					
92-01-I-00-HSV.:					
Huntsville Intl—Carl T Jones Field, Huntsville	03/06/1992	$3	$20,831,051	06/01/1992	11/01/2008
93-02-V-00-HSV.:					
Huntsville Intl—Carl T Jones Field, Huntsville	06/03/1993	3	0	09/01/1993	11/01/2008
94-03-C-00-HSV.:					
Huntsville Intl—Carl T Jones Field, Huntsville	06/29/1994	3	0	09/01/1994	11/01/2008
92-01-C-00-MSL.:					
Muscle Shoals Regional, Muscle Shoals	02/18/1992	3	100,000	06/01/1992	02/01/1995
94-02-C-00-MSL.:					
Muscle Shoals Regional, Muscle Shoals	05/17/1994	3	60,000	08/01/1994	10/01/1996
ARIZONA:					
92-01-C-00-FLG.:					
Flagstaff Pulliam, Flagstaff	09/29/1992	3	2,463,581	12/01/1992	01/01/2015
93-01-C-00-YUM.:					
Yuma MCAS/Yuma International, Yuma	09/09/1993	3	1,678,064	12/01/1993	06/01/2003
ARKANSAS:					
94-01-I-00-FSM.:					
Fort Smith Municipal, Fort Smith	05/18/1994	3	4,040,076	08/01/1994	04/01/2007
CALIFORNIA:					
92-01-C-00-ACV.:					
Arcata, Arcata	11/24/1992	3	188,500	02/01/1993	05/01/1994
94-02-C-00-ACV.:					
Arcata, Arcata	08/23/1994	3	369,500	11/01/1994	11/01/1996
94-01-C-00-BUR.:					
Burbank-Glendale-Pasadena, Burbank	06/17/1994	3	34,989,000	09/01/1994	10/01/2001
93-01-C-00-CIC.:					
Chico Municipal, Chico	09/29/1993	3	137,043	01/01/1994	06/01/1997
92-01-C-00-IYK.:					
Inyokern, Inyokern	12/10/1992	3	127,500	03/01/1993	09/01/1995
93-01-C-00-LGB.:					
Long Beach—Daugherty Field, Long Beach	12/30/1993	3	3,533,766	03/01/1994	03/01/1998
93-01-C-00-LAX.:					
Los Angeles International, Los Angeles	03/26/1993	3	360,000,000	07/01/1993	07/01/1998
94-01-C-00-MOD.:					
Modesto City-County Arpt-Harry Sham, Modesto	05/23/1994	3	300,370	08/01/1994	08/01/2001
93-01-C-00-MRY.:					
Monterey Peninsula, Monterey	10/08/1993	3	3,960,855	01/01/1994	06/01/2000
92-01-C-00-OAK.:					
Metropolitan Oakland International, Oakland	06/26/1992	3	12,343,000	09/01/1992	05/01/1994
94-02-C-00-OAK.:					
Metropolitan Oakland International, Oakland	02/23/1994	3	8,999,000	05/01/1994	04/01/1995
93-01-I-00-ONT.:					
Ontario International, Ontario	03/26/1993	3	49,000,000	07/01/1993	07/01/1998
92-01-C-00-PSP.:					
Palm Springs Regional, Palm Springs	06/25/1992	3	81,888,919	10/01/1992	11/01/2032
92-01-C-00-SMF.:					
Sacramento Metropolitan, Sacramento	01/26/1993	3	24,045,000	04/01/1993	03/01/1996
92-01-C-00-SJC.:					
San Jose International, San Jose	06/11/1992	3	29,228,826	09/01/1992	08/01/1995
93-02-U-00-SJC.:					
San Jose International, San Jose	02/22/1993	3	0	05/01/1993	08/01/1995
93-03-C-00-SJC.:					
San Jose International, San Jose	06/16/1993	3	16,245,000	08/01/1995	05/01/1997
92-01-C-00-SBP.:					
San Luis Obispo County—McChesney Field, San Luis Obispo	11/24/1992	3	502,437	02/01/1993	02/01/1995
92-01-C-00-STS.:					
Sonoma County, Santa Rosa	02/19/1993	3	110,500	05/01/1993	04/01/1995
94-02-C-00-STS.:					
Sonoma County, Santa Rosa	07/13/1994	3	272,365	10/01/1994	07/01/1997
91-01-I-00-TVL.:					
Lake Tahoe, South Lake Tahoe	05/01/1992	3	928,747	08/01/1992	03/01/1997
COLORADO:					
92-01-C-00-COS.:					
City of Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	03/01/1993	02/01/1996
92-01-C-00-DVX.:					
Denver International (new), Denver	04/28/1992	3	2,330,734,321	07/01/1992	01/01/2026
93-01-C-00-EGE.:					
Eagle County Regional, Eagle	06/15/1993	3	572,609	09/01/1993	04/01/1998

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
93–01–C–00–FNL.:					
Fort Collins—Loveland, Fort Collins	07/14/1993	3	207,857	10/01/1993	06/01/1996
92–01–C–00–GJT.:					
Walker Field, Grand Junction	01/15/1993	3	1,812,000	04/01/1993	03/01/1998
93–01–C–00–GUC.:					
Gunnison County, Gunnison	08/27/1993	3	702,133	11/01/1993	03/01/1998
93–01–C–00–HDN.:					
Yampa Valley, Hayden	08/23/1993	3	532,881	11/01/1993	04/01/1997
93–01–C–00–MTJ.:					
Montrose County, Montrose	07/29/1993	3	1,461,745	11/01/1993	02/01/2009
93–01–C–00–PUB.:					
Pueblo Memorial, Pueblo	08/16/1993	3	1,200,745	11/01/1993	08/01/2010
92–01–C–00–SBS.:					
Steamboat Springs/Bob Adams Field, Steamboat Springs	01/15/1993	3	1,887,337	04/01/1993	04/01/2012
92–01–C–00–TEX.:					
Telluride Regional, Telluride	11/23/1992	3	200,000	03/01/1993	11/01/1997
CONNECTICUT					
93–01–C–00–HVN.:					
Tweed-New Haven, New Haven	09/10/1993	3	2,490,450	12/01/1993	06/01/1999
93–01–I–00–BDL.:					
Bradley International, Windsor Locks	07/09/1993	3	12,030,000	10/01/1993	09/01/1995
94–03–U–00–BDL.:					
Bradley International, Windsor Locks	02/22/1994	3	0	05/01/1994	09/01/1995
FLORIDA:					
93–01–C–00–DAB.:					
Daytona Beach Regional, Daytona Beach	04/20/1993	3	7,967,835	07/01/1993	11/01/1999
92–01–C–00–RSW.:					
Southwest Florida International, Fort Myers	08/31/1992	3	253,858,512	11/01/1992	06/01/2014
93–02–U–00–RSW.:					
Southwest Florida International, Fort Myers	05/10/1993	3	0	11/01/1992	06/01/2014
93–01–C–00–JAX.:					
Jacksonville International, Jacksonville	01/28/1994	3	12,258,255	05/01/1994	07/01/1997
92–01–C–00–EYW.:					
Key West International, Key West	12/17/1992	3	945,937	03/01/1993	12/01/1995
92–01–C–00–MTH.:					
Marathon, Marathon	12/17/1992	3	153,556	03/01/1993	06/01/1995
94–01–C–00–MIA.:					
Miami International, Miami	08/19/1994	3	64,770,000	11/01/1994	08/01/1996
92–01–C–00–MCO.:					
Orlando International, Orlando	11/27/1992	3	167,574,527	02/01/1993	02/01/1998
93–02–C–00–MCO.:					
Orlando International, Orlando	09/24/1993	3	12,957,000	12/01/1993	02/01/1998
93–01–I–00–PFN.:					
Panama City—Bay County International, Panama City	12/01/1993	3	8,238,499	02/01/1994	10/01/2007
92–01–C–00–PNS.:					
Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	02/01/1993	04/01/1996
92–01–I–00–SRQ.:					
Sarasota-Bradenton International, Sarasota	06/29/1992	3	38,715,000	09/01/1992	09/01/2005
92–01–I–00–TLH.:					
Tallahassee Regional, Tallahassee	11/13/1992	3	8,617,154	02/01/1993	12/01/1998
93–02–U–00–TLH.:					
Tallahassee Regional, Tallahassee	12/30/1993	0	0	02/01/1993	.....
93–01–C–00–TPA.:					
Tampa International, Tampa	07/15/1993	3	87,102,000	10/01/1993	09/01/1999
93–01–C–00–PBI.:					
Palm Beach International, West Palm Beach	01/26/1994	3	38,801,096	04/01/1994	04/01/1999
GEORGIA:					
93–01–C–00–CSG.:					
Columbus Metrpolitan, Columbus	10/01/1993	3	534,633	12/01/1993	06/01/1995
91–01–C–00–SAV.:					
Savannah International, Savannah	01/23/1992	3	39,501,502	07/01/1992	03/01/2004
92–01–I–00–VLD.:					
Valdosta Regional, Valdosta	12/23/1992	3	260,526	03/01/1993	10/01/1997
IDAHO:					
94–01–C–00–BOI.:					
Boise Air Terminal—Gowen Field, Boise	05/13/1994	3	6,857,774	08/01/1994	10/01/1998
93–01–C–00–SUN.:					
Friedman Memorial, Hailey	06/29/1993	3	188,000	09/01/1993	09/01/1997
92–01–C–00–IDA.:					
Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	01/01/1993	01/01/1998

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
94-01-I-00-LWS.:					
Lewiston-Nez Perce County, Lewiston	02/03/1994	3	229,610	05/01/1994	03/01/1997
94-01-C-00-PIH.:					
Pocatello Regional, Pocatello	06/30/1994	3	400,000	10/01/1994	03/01/2002
92-01-C-00-TWF.:					
Twin Falls—Sun Valley Regional, Twin Falls	08/12/1992	3	270,000	11/01/1992	05/01/1998
ILLINOIS:					
94-01-C-00-BMI.:					
Bloomington/Normal, Bloomington/Normal	08/30/1994	3	3,855,012	11/01/1994	05/01/2010
93-01-C-00-MDW.:					
Chicago Midway, Chicago	06/28/1993	3	79,920,958	09/01/1993	09/01/1993
93-01-C-00-ORD.:					
Chicago O'Hare International, Chicago	06/28/1993	3	500,418,285	09/01/1993	10/01/1999
94-01-C-00-UIN.:					
Quincy Municipal Baldwin Field, Quincy	07/08/1994	3	115,517	10/01/1994	07/01/1997
92-01-I-00-RFD.:					
Greater Rockford, Rockford	07/24/1992	3	1,177,348	10/01/1992	10/01/1996
93-02-U-00-RFD.:					
Greater Rockford, Rockford	09/02/1993	0	0	12/01/1993	
92-01-I-00-SPI.:					
Capital, Springfield	03/27/1992	3	562,104	06/01/1992	02/01/1994
93-02-U-00-SPI.:					
Capital, Springfield	04/28/1993	3	0	06/01/1992	02/01/1994
93-03-I-00-SPI.:					
Capital, Springfield	11/24/1993	3	4,585,443	06/01/1992	02/01/2006
INDIANA:					
92-01-C-00-FWA.:					
Fort Wayne International, Fort Wayne	04/05/1993	3	26,563,457	07/01/1993	03/01/2015
93-01-C-00-IND.:					
Indianapolis International, Indianapolis	06/28/1993	3	117,344,750	09/01/1993	07/01/2005
94-01-C-00-SBN.:					
Michiana Regional, South Bend	08/26/1994	3	9,185,403	11/01/1994	12/31/2003
IOWA:					
93-01-C-00-DSM.:					
Des Moines Municipal, Des Moines	11/29/1993	3	6,446,507	03/01/1994	04/01/1997
92-01-I-00-DBQ.:					
Dubuque Regional, Dubuque	10/06/1992	3	148,500	01/01/1993	05/01/1994
94-02-C-00-DBQ.:					
Dubuque Regional, Dubuque	02/09/1994	3	203,420	05/01/1994	02/01/1996
93-01-C-00-SUX.:					
Sioux Gateway, Sioux City	03/12/1993	3	204,465	06/01/1993	06/01/1994
94-01-C-00-ALO.:					
Waterloo Municipal, Waterloo	03/29/1994	3	637,000	06/01/1994	06/01/1998
KENTUCKY:					
94-01-C-00-CVG.:					
Cincinnati/Northern Kentucky Interna, Covington	03/30/1994	3	20,737,000	06/01/1994	09/01/1995
93-01-C-00-LEX.:					
Blue Grass, Lexington	08/31/1993	3	12,378,791	11/01/1993	05/01/2003
93-01-C-00-PAH.:					
Barkley Regional, Paducah	12/02/1993	3	386,550	03/01/1994	12/01/1998
LOUISIANA:					
92-01-I-00-BTR.:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	09/28/1992	3	9,823,159	12/01/1992	12/01/1998
93-02-U-00-BTR.:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	04/23/1993	3	0	12/01/1992	12/01/1998
93-01-C-00-MSY.:					
New Orleans International/Moisant Field, New Orleans	03/19/1993	3	77,800,372	06/01/1993	04/01/2000
93-02-U-00-MSY.:					
New Orleans International/Moisant Field, New Orleans	11/16/1993	3	0	06/01/1993	04/01/2000
93-01-I-00-SHV.:					
Shreveport Regional, Shreveport	11/19/1993	3	33,050,278	02/01/1994	02/01/2019
MAINE:					
93-01-C-00-PWM.:					
Portland International Jetport, Portland	10/29/1993	3	12,233,751	02/01/1994	05/01/2001
MARYLAND:					
92-01-I-00-BWI.:					
Baltimore-Washington International, Baltimore	07/27/1992	3	141,866,000	10/01/1992	09/01/2002
94-02-C-00-BWI.:					
Baltimore-Washington International, Baltimore	08/09/1994	3	144,727,094	11/01/1994	04/01/2009
94-01-I-00-CBE.:					
Greater Cumberland Regional, Cumberland	03/30/1994	3	150,000	07/01/1994	07/01/1999

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
MASSACHUSETTS:					
93-01-C-00-BOS.:					
General Edward L Logan International, Boston	08/24/1993	3	604,794,000	11/01/1993	10/01/2011
92-01-C-00-ORH.:					
Worcester Municipal, Worcester	07/28/1992	3	2,301,382	10/01/1992	10/01/1997
MICHIGAN:					
92-01-C-00-DTW.:					
Detroit Metropolitan-Wayne County, Detroit	09/21/1992	3	640,707,000	12/01/1992	06/01/2009
92-01-I-00-ESC.:					
Delta County, Escanaba	11/17/1992	3	158,325	02/01/1993	08/01/1996
93-01-C-00-FNT.:					
Bishop International, Flint	06/11/1993	3	32,296,450	09/01/1993	09/01/2030
92-01-I-00-GRR.:					
Kent County International, Grand Rapids	09/09/1992	3	12,450,000	12/01/1992	05/01/1998
92-01-C-00-CMX.:					
Houghton County Memorial, Hancock	04/29/1993	3	162,986	07/01/1993	01/01/1996
93-01-C-00-IWD.:					
Gogebic County, Ironwood	05/11/1993	3	74,690	08/01/1993	10/01/1998
93-01-C-00-LAN.:					
Capital City, Lansing	07/23/1993	3	7,355,483	10/01/1993	03/01/2002
92-01-I-00-MQT.:					
Marquette County, Marquette	10/01/1992	3	459,700	12/01/1992	04/01/1996
94-02-U-00-MQT.:					
Marquette County, Marquette	04/06/1994	3	0	07/01/1994	04/01/1996
94-01-C-00-MKG.:					
Muskegon County, Muskegon	02/24/1994	3	5,013,088	05/01/1994	05/01/2019
92-01-C-00-PLN.:					
Pellston Regional—Emmet County, Pellston	12/22/1992	3	440,875	03/01/1993	06/01/1998
MINNESOTA:					
94-01-C-00-BRD.:					
Brainerd-Crow Wing County Regional, Brainerd	05/25/1993	3	43,000	08/01/1993	12/31/1995
94-01-C-00-DLH.:					
Duluth International, Duluth	07/01/1994	3	562,248	10/01/1994	04/01/1996
92-01-C-00-MSP.:					
Minneapolis-St Paul International, Minneapolis	03/31/1992	3	66,355,682	06/01/1992	08/01/1994
94-02-C-00-MSP.:					
Minneapolis-St Paul International, Minneapolis	05/13/1994	3	113,064,000	08/01/1994	06/01/1998
MISSISSIPPI:					
91-01-c-00-GTR.:					
Golden Triangle Regional, Columbus	05/08/1992	3	1,693,211	08/01/1992	09/01/2006
92-01-C-00-GPT.:					
Gulfport—Biloxi Regional, Gulfport-Biloxi	04/03/1992	3	390,595	07/01/1992	12/01/1993
93-02-c-00-GPT.:					
Gulfport-Biloxi Regional, Gulfport-Biloxi	11/02/1993	3	607,817	07/01/1992	12/01/1995
92-01-C-00-PIB.:					
Hattiesburg-Laurel Regional, Hattiesburg-Laurel	04/15/1992	3	119,153	07/01/1992	01/01/1998
93-01-C-00-JAN.:					
Jackson International, Jackson	02/10/1993	3	1,918,855	05/01/1993	04/01/1995
92-01-C-00-MEI.:					
Key Field, Meridian	08/21/1992	3	122,500	11/01/1992	06/01/1994
93-02-C-00-MEI.:					
Key Field, Meridian	10/19/1993	3	155,223	11/01/1992	08/01/1996
94-01-C-00-TUP.:					
Tupelo Municipal—C D Lemons Field, Tupelo	08/03/1994	3	461,000	11/01/1994	10/01/1999
MISSOURI:					
93-01-C-00-SGF.:					
Springfield Regional, Springfield	08/30/1993	3	1,937,090	11/01/1993	10/01/1996
92-01-C-00-STL.:					
Lambert-St Louis International, St Louis	09/30/1992	3	84,607,850	12/01/1992	03/01/1996
MONTANA:					
93-01-C-00-BIL.:					
Billings-Logan International, Billings	01/26/1994	3	5,672,136	04/01/1994	05/31/2002
93-01-C-00-BZN.:					
Gallatin Field, Bozeman	05/17/1993	3	4,198,000	08/01/1993	06/01/2005
94-01-C-00-BTM.:					
Bert Mooney, Butte	04/17/1994	3	410.202	07/01/1994	05/01/2000
92-01-C-00-GTF.:					
Great Falls International, Great Falls	08/28/1992	3	3,010,900	11/01/1992	07/01/2002
93-02-U-00-GTF.:					
Great Falls International, Great Falls	05/25/1993	3	0	11/01/1992	07/01/2002

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
92-01-C-00-HLN.:					
Helena Regional, Helena	01/15/1993	3	1,056,190	04/01/1993	12/01/1999
93-01-C-00-FCA.:					
Glacier Park International, Kalispell	09/29/1993	3	1,211,000	12/01/1993	11/01/1999
92-01-C-00-MSO.:					
Missoula International, Missoula	06/12/1992	3	1,900,000	09/01/1992	08/01/1997
NEVADA:					
91-01-C-00-LAS.:					
McCarran International, Las Vegas	02/24/1992	3	944,028,500	06/01/1992	02/01/2014
93-02-C-00-LAS.:					
McCarran International, Las Vegas	06/07/1993	3	36,500,000	06/01/1992	09/01/2014
94-03-U-00-LAS.:					
McCarran International, Las Vegas	04/20/1994	0	0	07/01/1994	.....
93-01-C-00-RNO.:					
Reno Cannon International, Reno	10/29/1993	3	34,263,607	01/01/1994	05/01/1999
NEW HAMPSHIRE:					
92-01-C-00-MHT.:					
Manchester, Manchester	10/13/1992	3	5,461,000	01/01/1993	03/01/1997
NEW JERSEY:					
92-01-C-00-EWR.:					
Newark International, Newark	07/23/1992	3	84,600,000	10/01/1992	08/01/1995
NEW YORK:					
93-01-I-00-ABL.:					
Albany County, Albany	12/03/1993	3	40,726,364	03/01/1994	04/01/2005
93-01-C-00-BGM.:					
Binghamton Regional/Edwin A Link Fie, Binghamton	08/18/1993	3	1,872,264	11/01/1993	11/01/1997
92-01-I-00-BUF.:					
Greater Buffalo International, Buffalo	05/29/1992	3	189,873,000	08/01/1992	03/01/2026
92-01-I-00-ITH.:					
Tompkins County, Ithaca	09/28/1992	3	1,900,000	01/01/1993	01/01/1999
92-01-C-00-JHW.:					
Chautauqua County/Jamestown, Jamestown	03/19/1993	3	434,822	06/01/1993	06/01/1996
92-01-C-00-JFK.:					
John F Kennedy International, New York	07/23/1992	3	109,980,000	10/01/1992	08/01/1995
92-01-C-00-LGA.:					
Laguardia, New York	07/23/1992	3	87,420,000	10/01/1992	08/01/1995
93-01-C-00-PLB.:					
Clinton County, Plattsburgh	04/30/1993	3	227,830	07/01/1993	01/01/1998
94-01-C-00-SLK.:					
Adirondack, Baranac Lake	05/18/1994	3	121,952	08/01/1994	01/01/2003
92-01-C-00-HPN.:					
Westchester County, White Plains	11/09/1992	3	27,883,000	02/01/1993	06/01/2022
NORTH CAROLINA:					
93-01-C-00-ILM.:					
New Hanover International, Wilmington	11/02/1993	3	1,505,000	02/01/1994	08/01/1997
NORTH DAKOTA:					
92-01-C-00-GFK.:					
Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	02/01/1993	02/01/1997
93-01-C-00-MOT.:					
Minot International Minot	12/15/1993	3	1,569,483	03/01/1994	03/01/1999
OHIO:					
92-01-C-00-CAK.:					
Akron-Canton Regional, Akron	06/30/1992	3	3,594,000	09/01/1992	08/01/1996
92-01-C-00-CLE.:					
Cleveland-Hopkins International, Cleveland	09/01/1992	3	34,000,000	11/01/1992	11/01/1995
94-02-U-00-CLE.:					
Cleveland-Hopkins International, Cleveland	02/02/1994	3	0	05/01/1994	11/01/1995
92-01-I-00-CMH.:					
Port Columbus International, Columbus	07/14/1992	3	7,341,707	10/1/1992	03/01/1994
93-02-I-00-CMH.:					
Port Columbus International, Columbus	07/19/1993	3	16,270,256	02/01/1994	09/01/1996
93-03-U-00-CMH.:					
Port Columbus International, Columbus	10/27/1993	3	0	10/01/1992	09/01/1996
94-02-C-00-DAY.:					
James M Cox Dayton International, Dayton	07/25/1994	3	23,467,251	10/01/1994	10/01/2001
93-01-C-00-TOL.:					
Toledo Express, Toledo	06/29/1993	3	2,750,896	09/01/1993	09/01/1996
94-01-C-00-YNG.:					
Youngstown—Warren Regional, Youngstown	02/22/1994	3	351,180	05/01/1994	07/01/1996

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
OKLAHOMA:					
92-01-C-00-LAW.:					
Lawton Municipal, Lawton	05/08/1992	3	482,135	08/01/1992	04/01/1996
92-01-I-00-TUL.:					
Tulsa International, Tulsa	05/11/1992	3	9,717,000	08/01/1992	08/01/1995
93-02-U-00-TUL.:					
Tulsa International, Tulsa	10/18/1993	3	0	02/01/1994	08/01/1995
OREGON:					
93-01-C-00-EUG.:					
Mahlon Sweet Field, Eugene	08/31/1993	3	3,729,699	11/01/1993	11/01/1998
93-01-C-00-MFR.:					
Medford-Jackson County, Medford	04/21/1993	3	1,066,142	07/01/1993	11/01/1995
93-01-C-00-OTH.:					
North Bend Municipal, North Bend	11/24/1993	3	182,044	02/01/1994	01/01/1998
92-01-C-00-PDX.:					
Portland International, Portland	04/08/1992	3	17,961,850	07/01/1992	07/01/1994
94-02-C-00-PDX.:					
Portland International, Portland	07/12/1994	3	53,653,440	11/01/1994	09/01/1999
93-01-C-00-RDM.:					
Roberts Field, Redmond	07/02/1993	3	1,191,552	10/01/1993	03/01/2000
PENNSYLVANIA:					
92-01-I-00-ABE.:					
Allentown-Bethlehem-Easton, Allentown	08/28/1992	3	3,778,111	11/01/1993	04/01/1995
92-01-C-00-AOO.:					
Altoona-Blair County, Altoona	02/03/1993	3	198,000	05/01/1993	02/01/1996
92-01-C-00-ERI.:					
Erie International, Erie	07/21/1992	3	1,997,885	10/01/1992	06/01/1997
93-01-C-00-JST.:					
Johnstown-Cambria County, Johnstown	08/31/1993	3	307,500	11/01/1993	02/01/1998
92-01-I-00-PHL.:					
Philadelphia International, Philadelphia	06/29/1992	3	76,169,000	09/01/1992	07/01/1995
93-02-U-00-PHL.:					
Philadelphia International, Philadelphia	05/14/1993	3	0	08/01/1993	07/01/1995
92-01-C-00-UNV.:					
University Park, State College	08/28/1992	3	1,495,974	11/01/1992	07/01/1997
93-01-C-00-AVP.:					
Wilkes-Barre/Scranton International, Wilkes-Barre/Scranton	09/24/1993	3	2,369,566	12/01/1993	06/01/1997
RHODE ISLAND:					
93-01-C-00-PVD.:					
Theodore F. Green State, Providence	11/30/1993	3	103,885,286	02/01/1994	08/01/2013
SOUTH CAROLINA:					
93-01-C-00-CAE.:					
Columbia Metropolitan, Columbia	08/23/1993	3	32,969,942	11/01/1993	09/01/2008
93-01-C-00-49J.:					
Hilton Head, Hilton Head Island	11/19/1993	3	1,542,300	02/01/1994	03/01/1999
TENNESSEE:					
93-01-C-00-CHA.:					
Lovell Field, Chattanooga	04/26/1994	3	7,177,253	07/01/1994	10/01/2002
93-01-C-00-TYS.:					
McGhee Tyson, Knoxville	10/06/1993	3	5,681,615	01/01/1994	01/01/1997
92-01-I-00-MEM.:					
Memphis International, Memphis	05/28/1992	3	26,000,000	08/01/1992	12/01/1994
93-02-C-00-MEM.:					
Memphis International, Memphis	01/14/1994	3	24,026,000	04/01/1994	10/01/1999
92-01-C-00-BNA.:					
Nashville International, Nashville	10/09/1992	3	143,358,000	01/01/1993	02/01/2004
TEXAS:					
93-02-C-00-AUS.:					
Robert Mueller Municipal, Austin	06/04/1993	3	6,181,800	11/01/1993	01/01/1995
94-01-C-00-BPT.:					
Jefferson County, Beaumont/Port Arthur	06/03/1994	3	563,126	09/01/1994	11/01/1996
93-01-C-00-CRP.:					
Corpus Christi International, Corpus Christi	12/29/1993	3	5,540,745	03/01/1994	01/01/1998
94-01-C-00-DFW.:					
Dallas/Fort Worth International, Dallas/Fort Worth	02/17/1994	3	115,000,000	07/01/1994	02/01/1996
92-01-C-00-ILE.:					
Killeen Municipal, Killeen	10/20/1992	3	243,339	01/01/1993	11/01/1994
93-01-I-00-LRD.:					
Laredo International, Laredo	07/23/1993	3	11,983,000	10/01/1993	09/01/2013

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
93-01-C-00-LBB.:					
Lubbock International, Lubbock	07/09/1993	3	10,699,749	10/01/1993	02/01/2000
94-02-U-00-LBB.:					
Lubbock International, Lubbock	02/15/1994	3	0	05/01/1994	02/01/2000
92-01-I-00-MAF.:					
Midland International, Midland	10/16/1992	3	35,529,521	01/01/1993	01/01/2013
94-02-U-00-MAF.:					
Midland International, Midland	04/14/1994	3	0	07/01/1994	01/01/2013
93-01-C-00-SJT.:					
Mathis Field, San Angelo	02/24/1993	3	873,716	05/01/1993	11/01/1998
93-01-C-00-TYR.:					
Tyler Pounds Field, Tyler	12/20/1993	3	819,733	03/01/1994	07/01/1998
94-01-C-00-VCT.:					
Victoria Regional, Victoria	08/25/1994	3	195,960	12/01/1994	10/01/1997
VIRGINIA:					
92-01-I-00-CHO.:					
Charlottesville-Albemarle, Charlottesville	06/11/1992	2	255,559	09/01/1992	11/01/1993
92-02-U-00-CHO.:					
Charlottesville-Albemarle, Charlottesville	12/21/1992	2	0	09/01/1992	11/01/1993
93-03-U-00-CHO.:					
Charlottesville-Albemarle, Charlottesville	10/20/1993	2	0	01/01/1994	11/01/1993
94-01-C-00-RIC.:					
Richmond International (Byrd Field), Richmond	02/04/1994	3	30,976,072	05/01/1994	08/01/2005
93-01-C-00-IAD.:					
Washington Dulles International, Washington, DC	10/18/1993	3	199,752,390	01/01/1994	11/01/2003
93-01-C-00-DCA.:					
Washington National, Washignton, DC	08/16/1993	3	166,739,071	11/01/1993	11/01/2000
94-02-U-00-DCA.:					
Washington National, Washington, DC	04/06/1994	3	0	07/01/1994	11/01/2000
WASHINGTON:					
93-01-C-00-BLI.:					
Bellingham International, Bellingham	04/29/1993	3	366,000	07/01/1993	01/01/1995
93-01-C-00-PSC.:					
Tri-Cities, Pasco	08/03/1993	3	1,230,731	11/01/1993	11/01/1996
93-01-C-00-CLM.:					
William R. Fairchild International, Port Angeles	05/24/1993	3	52,000	08/01/1993	08/01/1994
94-01-C-00-PUW.:					
Pullman-Moscow Regional, Pullman	03/22/1994	1	169,288	06/01/1994	01/01/1998
92-01-C-00-SEA.:					
Seattle-Tacoma International, Seattle	08/13/1992	3	28,847,488	11/01/1992	01/01/1994
93-02-C-00-SEA.:					
Seattle-Tacoma International, Seattle	10/25/1993	3	47,500,500	01/01/1994	01/01/1996
93-01-C-00-GEG.:					
Spokane International, Spokane	03/23/1993	3	15,272,000	06/01/1993	12/01/1999
93-01-I-00-ALW.:					
Walla Walla Regional, Walla Walla	08/03/1993	3	1,187,280	11/01/1993	11/01/2014
93-01-C-00-EAT.:					
Pangborn Field, Wenatchee	05/26/1993	3	280,500	08/01/1993	10/01/1995
92-01-C-00-YKM.:					
Yakima Air Terminal, Yakima	11/10/1992	3	416,256	02/01/1993	04/01/1995
WEST VIRGINIA:					
93-01-C-00-CRW.:					
Yeager, Charleston	05/28/1993	3	3,254,126	08/01/1993	04/01/1998
93-01-C-00-CKB.:					
Benedum, Clarksburg	12/29/1993	3	105,256	04/01/1994	04/01/1996
92-01-C-00-MGW.:					
Morganton Muni—Walter L. Bill Hart, Morgantown	09/03/1992	3	55,500	12/01/1992	01/01/1994
WISCONSIN:					
94-01-C-00-ATW.:					
Outagamie County, Appleton	04/25/1994	3	3,233,645	07/01/1994	09/01/2000
92-01-C-00-GRB.:					
Austin Straubel International, Green Bay	12/28/1992	3	8,140,000	03/01/1993	03/01/2003
94-01-C-00-LSE.:					
La Crosse Municipal, La Crosse	04/06/1994	3	795,299	08/01/1994	08/01/1997
93-01-C-00-MSN.:					
Dane County Regional—Truax Field, Madison	06/22/1993	3	6,746,000	09/01/1993	03/01/1998
93-01-I-00-CWA.:					
Central Wisconsin, Mosinee	08/10/1993	3	7,725,600	11/01/1993	11/01/2012
93-01-C-00-RHI.:					
Rhinelander-Oneida County, Rhinelander	08/04/1993	3	167,201	11/01/1993	04/01/1996

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, application number, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
WYOMING:					
93-01-C-00-CPR.:					
Natrona County International, Casper	06/14/1993	3	506,144	09/01/1993	10/01/1996
93-01-C-00-CYS.:					
Cheyenne, Cheyenne	07/30/1993	3	742,261	11/01/1993	08/01/2000
93-01-I-00-GCC.:					
Gillette-Campbell County, Gillette	06/28/1993	3	331,540	09/01/1993	09/01/1999
93-01-C-00-JAC.:					
Jackson Hole, Jackson	05/25/1993	3	1,081,183	08/01/1993	02/01/1996
GUAM:					
92-01-C-00-NGM.:					
Agana NAS, Agana	11/10/1992	3	5,632,000	02/01/1993	06/01/1994
93-02-C-00-NGM.:					
Agana Nas, Agana	02/25/1994	3	258,408,107	05/01/1994	06/01/2021
PUERTO RICO:					
92-01-C-00-BQN.:					
Rafael Hernandez, Aguadilla	12/29/1992	3	1,053,000	03/01/1993	01/01/1999
92-01-C-00-PSE.:					
Mercedita, Ponce	12/29/1992	3	866,000	03/01/1993	01/01/1999
92-01-C-00-SJU.:					
Luis Munoz Marin International, San Juan	12/29/1992	3	49,768,000	03/01/1993	02/01/1997
93-02-U-00-SJU.:					
Luis Munoz Marin International, San Juan	12/14/1993	3	0	03/01/1994	02/01/1997
VIRGIN ISLANDS:					
92-01-I-00-STT.:					
Cyril E King, Charlotte Amalie	12/08/1992	3	3,871,005	03/01/1993	03/01/1993
92-01-I-00-STX.:					
Alexander Hamilton, Christiansted St Croix	12/08/1992	3	2,280,465	03/01/1993	05/01/1995

*The estimated charge expiration date is subject to change due to the rate of collection and actual allowable projects costs.

[FR Doc. 94-25566 Filed 10-14-94; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Douglas County, KS

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a Final Environmental Impact Statement will be prepared for a segment of the South Lawrence Trafficway project in Douglas County, Kansas.

FOR FURTHER INFORMATION CONTACT: Johnny R. Dahl, P.E., Operations Engineer, FHWA, 3300 South Topeka Boulevard, Suite 1, Topeka, Kansas 66611-2237, Telephone: (913)267-7284. Larry W. Emig, Chief of Bureau of Local Projects, Kansas Department of Transportation, Docking State Office Building, 7th Floor, Topeka, Kansas 66612-1568, Telephone: (913)296-3861. Frank B. Hempen, Jr., P.E., Director of Public Works/County Engineer, Douglas County, Department of Public Works, 1242 Massachusetts Street, Lawrence, Kansas 66044, Telephone: (913)841-7700.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kansas Department of Transportation and Douglas County will prepare a supplement to the Final Environmental Impact Statement (FEIS) for a segment of the highway project known as the South Lawrence Trafficway (SLT). The original FEIS for the improvements (FHWA-KS-EIS-87-01-F) was approved on January 4, 1990. If this segment is constructed, the project would be primarily on new location, and developed initially as a two-lane road (ultimately as a four-lane roadway). The SLT Supplemental Environmental Impact Statement (SEIS) corridor runs from U.S. 59 east to K-10 near 31st Street in south Lawrence. The remaining section of the SLT is from I-70/Kansas Turnpike Authority (KTA) south and east to U.S. 59.

The SLT is intended to provide for projected traffic demands and to alleviate traffic congestion on the two primary arterial streets in the south and west sections in the City of Lawrence and improve access to the University of Kansas and Clinton Lake.

The location (preferred alternative) of the western portion of the South Lawrence Trafficway, from I-70/KTA then south and east to U.S. 59, has been approved and construction is underway. However, new information regarding the effects of the SLT on the cultural issues, spiritual sites, academic programs, and future development at Haskell Indian Nations University (HINU) which were not evaluated in the SLT FEIS have been raised. This segment of the proposed SLT facility, from U.S. 59 east to K-10, is now to be restudied to address concerns raised by HINU.

Alternatives under consideration include (1) constructing a two-lane (ultimately a four-lane) limited access highway on the current preferred alternative; and (2) constructing a two-lane ((ultimately a four-lane) limited access highway on an alternate alignment. Design variations of grade and alignment will be incorporated into and studied with the various build alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. Letters will also be sent to the private organizations and citizens who have previously expressed or are known to have interest in this proposal.

A public hearing will be held in Lawrence, Kansas, to provide opportunity for input into the SLT SEIS. Public notice will be given for the time

and place of the public hearing. The Draft SEIS will be available for public and governmental agency review and comment prior to the public hearing. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the SLT SEIS should be directed to the FHWA, Douglas County, or the Kansas Department of Transportation at the addresses provided above.

Issued on: October 6, 1994.

Johnny R. Dahl,

Operations Engineer, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 94–25572 Filed 10–14–94; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

October 6, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0508
Form Number: ATF F 5300.28 and ATF REC 5300/28
Type of Review: Revision
Title: Application for Registration for Tax-Free Transactions Under 26 U.S.C. 4221
Description: Businesses, State and local governments, and small businesses apply for registration to sell or purchase firearms or ammunition tax free on this form. ATF uses the form to determine an applicant's qualifications.
Respondents: State or local governments, businesses or other for-profit, small businesses or organizations
Estimated Number of Respondents: 125
Estimated Burden Hours Per Respondent: 3 hours
Frequency of Response: Other (One-Time)
Estimated Total Reporting Burden: 375 hours
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–25618 Filed 10–14–94; 8:45 am]

BILLING CODE 4810–31–U

Public Information Collection Requirements Submitted to OMB for Review

October 11, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0794
Regulation ID Number: LR–311–81 Final (T.D. 7925)
Type of Review: Extension
Title: Penalties for Underpayment of Deposits and Overstated Deposit Claims, and Time of Filing Penalties Returns of Owners, Officers and Directors of Foreign Corporations
Description: Section 6046 requires information returns with respect to certain foreign corporations and the regulations provide the date by which these returns must be filed. Section 6656 provides penalties with respect to failure to properly satisfy tax deposit obligations and the regulations provide the method for applying for relief from these penalties.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 60,000
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 30,000 hours
OMB Number: 1545–1100
Regulation ID Number: EE–84–89
Type of Review: Extension
Title: Changes with Respect to Prizes and Awards and Employee Achievement Awards
Description: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.
Respondents: Individuals or households
Estimated Number of Respondents: 1
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–25619 Filed 10–14–94; 8:45 am]

BILLING CODE 4830–01–U

Office of the Secretary

Notice of Call for Redemption

Washington, October 12, 1994.

To Holders of 7⅞ Percent Treasury Bonds of 1995–00, and Others Concerned:

1. Public notice is hereby given that all outstanding 7⅞ percent Treasury Bonds of 1995–00 (CUSIP No. 913810 BS 6) dated February 18, 1975, due February 15, 2000, are hereby called for redemption at par on February 15, 1995, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of the Treasury Circular No. 300, Revised, dated March 4, 1973, and by contacting a Federal Reserve Bank or Branch.

3. Such bonds held in book-entry form will be paid automatically on

February 15, 1995, whether held on the books of the Federal Reserve Banks or in Treasury Direct accounts.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 94–25687 Filed 10–13–94 9:46 am]

BILLING CODE 4810–40–M

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

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

ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of an increase in the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning October 1, 1994, the rates will be 8 percent for overpayments and 9 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: John V. Accetturo, U.S. Customs Service, National Finance Center, Revenue Accounting Branch, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1308.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter. The rates of interest for the first quarter of fiscal year (FY) 1995 (the period of October 1–December 31, 1994) are increased to 8 percent for overpayments and 9 percent for underpayments. These rates will remain in effect through December 31, 1994, and are subject to change for the second quarter of FY–1995 (the period of January 1–March 31, 1995).

Dated: October 11, 1994.

George J. Weise,

Commissioner of Customs.

[FR Doc. 94–25595 Filed 10–14–94; 8:45 am]

BILLING CODE 4870–02–P

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held October 25 and 26, 1994.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on October 25 and 26, 1994, in room 118, beginning at 9:30 a.m., Aerospace Center Building, 901 D Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4 901 D Street SW., Washington, DC 20024. Telephone (202) 401–4128, (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on October 25 and 26, 1994 in room 118 beginning at 9:30 a.m., Aerospace Center Building, 901 D Street SW., Washington, DC 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

The Commissioner of Internal Revenue has determined that this document is not a significant regulatory action as defined in Executive Order 12866 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 94–25532 Filed 10–14–94; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[No. 94–221]

Monthly Median Cost of Funds Index

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice; request for comment.

SUMMARY: Since 1982, the Office of Thrift Supervision (OTS) or its predecessor, the Federal Home Loan Bank Board (FHLBB), has collected data from savings associations for, and published, the Monthly Median Cost of Funds (MMCOF) index. This index is available for adjusting the interest rate on adjustable rate mortgages (ARMs).

The MMCOF has become less important to the mortgage lending industry since development of the Eleventh District Cost of Funds Index and the One Year Treasury Bill Rate Index. At the same time, as the OTS-regulated portion of the thrift industry has contracted, the MMCOF has been based on data from a significantly smaller number of institutions, representing a smaller portion of mortgage loans.

The OTS is currently evaluating the direct cost to the industry of supplying data for use in calculating the MMCOF and the indirect cost to the industry of OTS committing resources used to calculate the MMCOF. The OTS is considering whether it should: cease publishing the MMCOF; or modify the scope of the MMCOF to increase its usefulness or reduce the cost to savings associations.

Potential modifications include expanding the number of reporting institutions to include all OTS-regulated savings associations or decreasing the reporting universe to a statistically valid sample of OTS-regulated institutions.

If the OTS were to cease publishing the MMCOF, section 402(e)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).

requires the agency to designate acceptable substitute indices that could be used for adjusting ARMs currently based on the MMCOF. After reviewing available indices, OTS found that the Quarterly Average Cost of Funds Index (QCOFI) and the Eleventh District Cost of Funds Index appear to be acceptable substitute indices. Both of these indices are readily available for adjusting ARMs and have demonstrated a strong correlation over time to the MMCOF. If the agency determines to stop publishing the MMCOF, it anticipates providing a transition period of one or two quarters before releasing the last MMCOF.

DATES: Comments must be received on or before November 16, 1994.

ADDRESSES: Comments should be directed to Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Attention Docket No. 94–221. These submissions may be hand delivered to 1700 G Street NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906–7755. Comments will be available for inspection from 1 p.m. until 4 p.m. on business days. Visitors will be escorted to and from the Public Reference Room at established intervals.

FOR FURTHER INFORMATION CONTACT: Stephen A. Whatley, Financial Analyst, (202) 906–7228, William Shively, Acting Deputy Assistant Director (202) 906–5701, Supervisory Operations; Catherine A. Shepard, Senior Attorney, (202) 906–7275, Regulations and Legislation Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

A. Purpose of the MMCOF

The MMCOF is a monthly index published by the OTS that can be used to adjust the interest rate on ARMs. The FHLBB first published the MMCOF in December, 1982. Before the MMCOF, the only national COF index available to savings associations to adjust interest rates on ARMs was the semiannual cost of funds index the FHLBB introduced in 1979, when ARMs first began to be used by the thrift industry to help manage interest-rate risks. Because this COF was only published semiannually, many mortgagors would wait until the rate was published to make their refinancing decisions. The result was a semiannual surge in the number of refinancings.

The FHLBB and the savings and loan industry believed that creating a monthly cost of funds index, the MMCOF, would help disperse throughout the calendar year the number of refinancings associated with both fixed rate mortgages and ARMs that use COF indices. Since that time, other monthly indices have been developed and have become far more widely used than the MMCOF.

B. Current Usage of the MMCOF

The Federal Housing Finance Board's (FHFB) *Conventional Mortgage Interest Rate Survey* (MIRS), indicates that the MMCOF is currently of minor importance to the mortgage lending industry. This survey showed that instruments used to adjust the interest rate on ARMs included:

1. Treasury bills with maturities of less than one year;
2. One-year Treasury bills;
3. Treasury notes/bonds with maturities greater than one year;
4. Eleventh District Cost of Funds;
5. Federal Housing Finance Board contract rate series on previously occupied homes; and
6. Other cost of funds indices, including the MMCOF.

According to the March 1994 MIRS, of ARMs closed in March 1994, 57.7 percent were adjusted by the one-year Treasury constant maturity index, while 21.3 percent of the ARMs were tied to the Eleventh District COFI. Combined, these two indices controlled 79.0% of the new ARM business. Only 1.8% of ARMs closed in March 1994 were adjusted with indices included in the "Other Cost of Funds Indexes," which includes mortgages adjusted with the MMCOF. When both fixed rate mortgages and ARMs were considered, the "Other Cost of Funds" mortgages were less than one percent of all loans closed.

While the OTS has no data that explain why the MMCOF has been used by such a small percentage of the ARM market, it notes that the universe of reporting institutions providing the data from which the MMCOF is calculated has declined dramatically since its inception. In August 1989, the MMCOF was calculated from data reported by approximately 3,350 FHLBB-regulated, Federal Savings and Loan Insurance Corporation-insured institutions. The then relatively small universe of FHLBB-regulated, Federal Deposit Insurance Corporation (FDIC)-insured federal savings banks was not included in calculating the MMCOF. Although these institutions were few in number, they then represented, and continue to represent, approximately 9–10% of the industry's assets.

The number and aggregate assets of OTS-regulated, Savings Association Insurance Fund (SAIF)-insured institutions declined rapidly after FIRREA, with the result that the MMCOF was being prepared from an increasingly smaller universe. Only 1,614 institutions were reporting as of March 1994. This reporting universe includes only OTS-regulated, SAIF members. It no longer includes approximately 221 FDIC-regulated, private sector SAIF-insured institutions.

C. Current Costs of the MMCOF

The OTS estimates that it costs the industry approximately $400,000 per year to complete and file the MMCOF index data electronically.[1] The total annual cost to the agency to prepare and distribute the MMCOF, which OTS does not use for any supervisory or regulatory purpose, is between $50,000 and $100,000. Accordingly, the OTS believes that the significant resource costs it incurs in calculating and publishing the MMCOF and the relatively high data preparation cost to the industry may outweigh the continued usefulness of the publication, at least in its current form. Therefore, OTS is reviewing: (1) whether the usefulness of the MMCOF can be increased or the burden on the industry and OTS can be decreased through modifying the scope of the MMCOF; or (2) whether OTS should stop publishing the MMCOF.

D. Statutory Requirements

Section 402(e)(3) of FIRREA requires the OTS to take such action as is necessary to assure that the indices prepared by the FHLBB, including the MMCOF, immediately prior to the enactment of FIRREA and used to calculate the interest rate on ARMs continue to be published. Under section 402(e)(4), the OTS may cease publication of an index if it substitutes an index that is substantially similar to the index that is being deleted and if the Director of OTS determines, after notice and opportunity for comment, that:

1. the new index is based on data substantially similar to that of the original index; and

[1] OTS estimates that filing data for the MMCOF cost approximately $20 per report, per month, per savings association. Before January, 1993, the MMCOF was calculated based on information extracted from the monthly Thrift Financial Report ("TFR"). As of January 1, 1993, OTS abolished the monthly TFR to reduce the regulatory reporting burden on the industry. Since then, OTS-regulated SAIF-insured savings associations have been required to submit information directly to OTS for calculation and publication of the MMCOF.

2. the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

This statutory protection is designed to mitigate the potential impact of substantially modifying or stopping publication of an index on outstanding mortgages. Currently, ARMs purchased by both the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation contain "adjustable rate note" language discussing the index to be used and what must occur if an index is no longer available. The standard language is: "If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice." This means that the mortgage holder does not have to renegotiate with a borrower so long as the new index selected is based upon comparable information and the borrower is notified of the change.

In determining whether to modify the MMCOF, OTS must therefore consider whether such a modified index would be based on comparable data and provide comparable results. Similarly, in considering stopping publication of the MMCOF, OTS must determine whether acceptable substitute indices are available.

II. Potential Modifications to the MMCOF

OTS has considered two potential modifications to the MMCOF and believes that neither would substantially affect the information provided in the MMCOF or the results obtained by using it in adjusting ARMs.

A. Use a Randomly Selected Sample of the Industry

The OTS has considered computing the MMCOF using a randomly selected sample of OTS-regulated institutions. This might include the OTS-regulated, BIF-insured institutions discussed above in section II.A. The OTS estimates that a random sample of 476 institutions would provide a confidence level of 95% that the MMCOF will be within +(−) .05% (5 basis points) of the sample value. By rotating the institutions comprising the statistical sample every twelve to eighteen months, the regulatory reporting burden on the industry as a whole would be reduced. The agency resources involved in calculating the MMCOF would also likely be reduced.

B. Expand the Number of Reporting Institutions

One of the past benefits of the MMCOF as an index for adjusting ARMs was that it represented a broad, national cross-section of the thrift industry. If the MMCOF is no longer widely used because it is calculated from a decreasing number of OTS-regulated SAIF-insured thrifts, one alternative that might increase its utility is to expand the number of reporting institutions. While OTS does not have the authority to require depository institutions that it does not regulate, such as commercial banks to provide information on their cost of funds to the OTS, it could expand the MMCOF to include OTS-regulated, Bank Insurance Fund (BIF)-insured institutions. This would add 16 institutions currently not included in the reporting universe. These institutions control between 9 and 10% of the industry assets.

Expanding the number of reporting institutions to include the OTS-regulated BIF-insured institutions would only slightly affect the MMCOF index, however, because it is a median index[2] and not a weighted average.[3] The additional burden such an expansion would cause OTS would also be slight.

III. Potential Substitute Indices if OTS Stopped Publishing the MMCOF

OTS reviewed three potential substitute indices to determine if any would be acceptable substitutes under the requirements of section 402(e)(3) of FIRREA. Two of these indices either use a calculation formula substantially similar to the MMCOF or yield results substantially similar to the MMCOF: the Eleventh District COFI and the QCOFI. These indices are based on data either supplied to the OTS or that the OTS requires thrifts to supply to their Federal Home Loan Banks on request.

The index most frequently used to adjust ARMs, One Year Treasury Bills (Constant Maturity), was also reviewed as a possible acceptable substitute. OTS believes, however, that this index does not satisfy the statutory requirements for substitute indices because it is neither technically similar to the MMCOF index, nor is its movement substantially similar. Exhibit 1 shows the movement of the MMCOF compared to the One Year Treasury Bill index. The two indices' only similarity is that both are released monthly.

A. Eleventh District Cost of Funds Index

The Federal Home Loan Bank of San Francisco's "Eleventh District Cost of Funds" index is calculated from data submitted from all OTS-regulated SAIF-insured savings institutions located in Arizona, California, and Nevada.[4] In March, 1994, these institutions represented 6.4 percent of the total number and approximately 35 percent of the total assets of OTS-regulated institutions. The Eleventh District COFI and the MMCOF are substantially similar in that the formula used in the Eleventh District COFI is based on the same Thrift Financial Report lines as are used in the MMCOF. While the Eleventh District COFI is a weighted mean and the MMCOF is a median, the Eleventh District COFI closely tracks the MMCOF. For example, from mid-1991 through March 1994, the monthly results were substantially similar, particularly over the last two years. Exhibit 2 shows the movement of the Eleventh District COFI as compared to the MMCOF from 1980 through March 1994.

B. OTS Quarterly Average Cost of Funds Index

The QCOFI, published by the OTS, closely tracks the MMCOF. The QCOFI is published less frequently than the MMCOF. Thus, it would only be available to savings associations on a quarterly basis. The only distinction between the two indices is that the MMCOF is a median while the QCOFI is a mean (weighted average). However, as shown in Exhibit 3, the trend lines between the MMCOF and the QCOFI are quite close.

Because the QCOFI is a weighted average, the addition of the OTS-regulated, BIF members to the reporting universe would have a larger impact on the QCOFI than on a median index such as the MMCOF. The QCOFI would have declined if BIF-insured institutions had been included in the calculation (see Exhibit 4). Such a decrease would lower the yield on mortgages tied to the national index. In addition, indices calculated for states and/or regions that contain BIF institutions could be affected. One possible alternative would be for OTS to calculate and publish a Quarterly Median Cost of Funds index.

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[2] The median cost of funds is defined as the middle value (the point that has an equal number of observations above and below it) of a set of institutions' individual cost of funds ratios.

[3] The weighted mean cost of funds ratio is defined as the sum of quarterly interest expense paid or accrued on deposits and borrowings, excluding escrow accounts, divided by the average (current and previous cycle) sum of balances in deposits and borrowings (both Federal Home Loan Bank advances and other borrowings, excluding escrow accounts).

[4] 12 CFR 563.180(e) requires savings associations to supply this data to their respective Federal Home Loan Banks upon request.

IV. Request for Comment

OTS invites comment on all aspects of the proposed modifications to, or elimination of publication of, the MMCOF. Comments should focus on the impact of the proposal on lending institutions in adjusting the interest rate on their ARMs. Specific comments should address any difficulties savings associations encounter in preparing the monthly submission of data to the OTS; any potential benefits of continuing publication of the MMCOF index with modifications; and the suitability of the two substitute indices proposed by the OTS. Comments from savings associations might also address the potential savings resulting from the proposed reduction in the reporting burden.

Dated: October 11, 1994.

By the Office of Thrift Supervision.

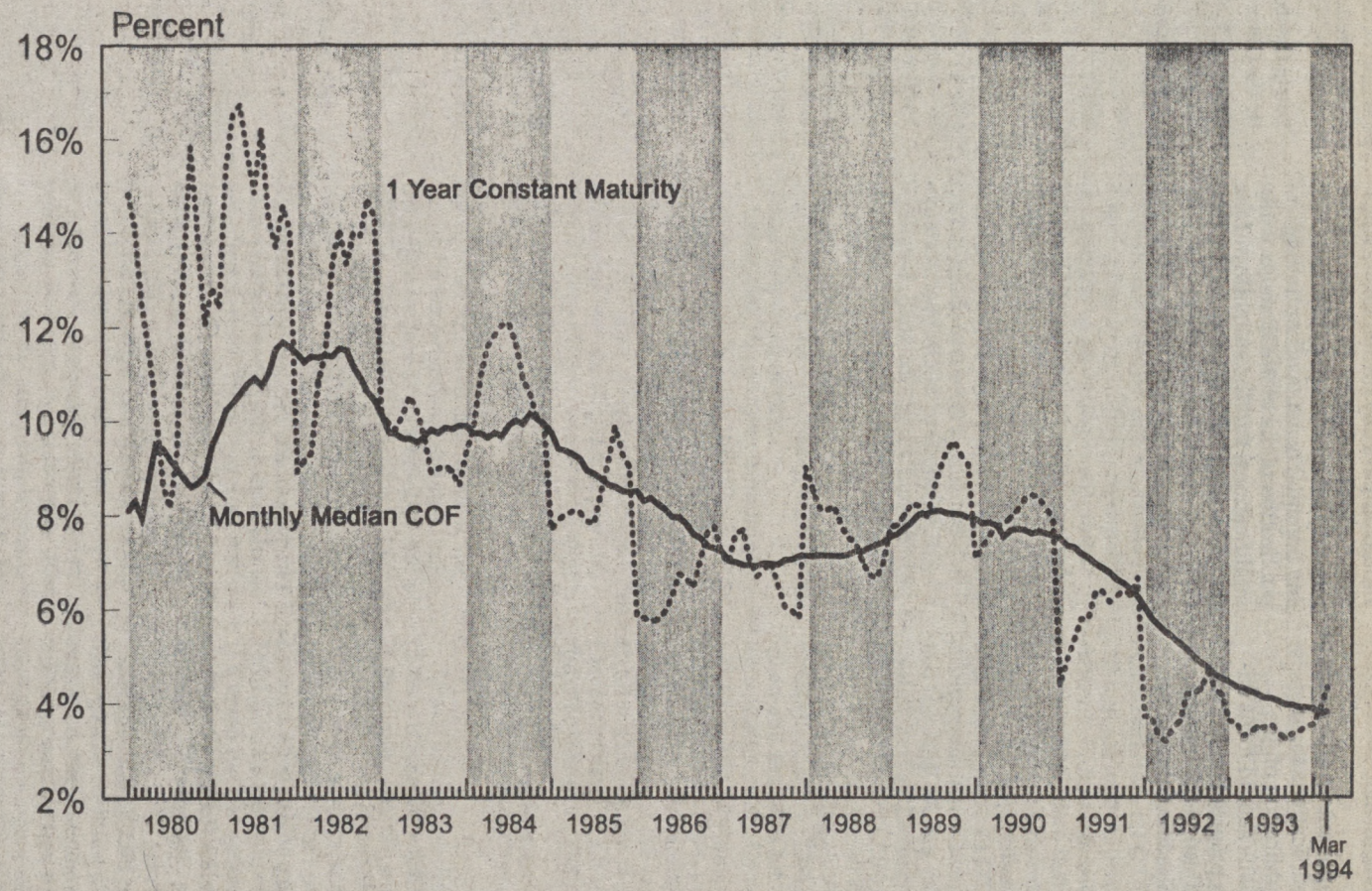
Jonathan L. Fiechter,

Acting Director.

BILLING CODE 6720-01-P

EXHIBIT 1

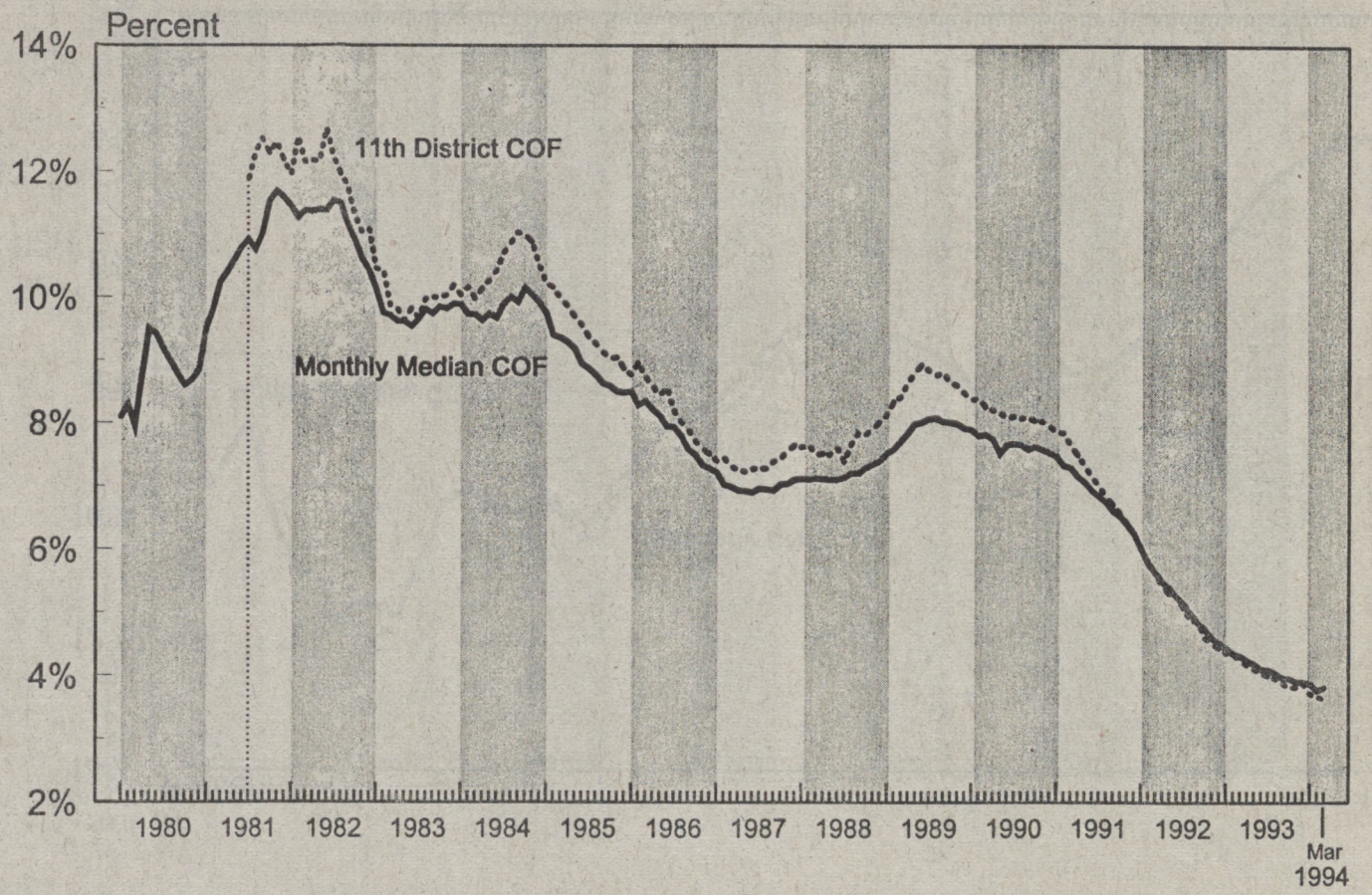
Comparison of 1 Year Treasury Bill (Constant Maturity) and Monthly Median COF



Sources: Federal Reserve / Office of Thrift Supervision
Office of Thrift Supervision / Data Through March 31, 1994

EXHIBIT 2

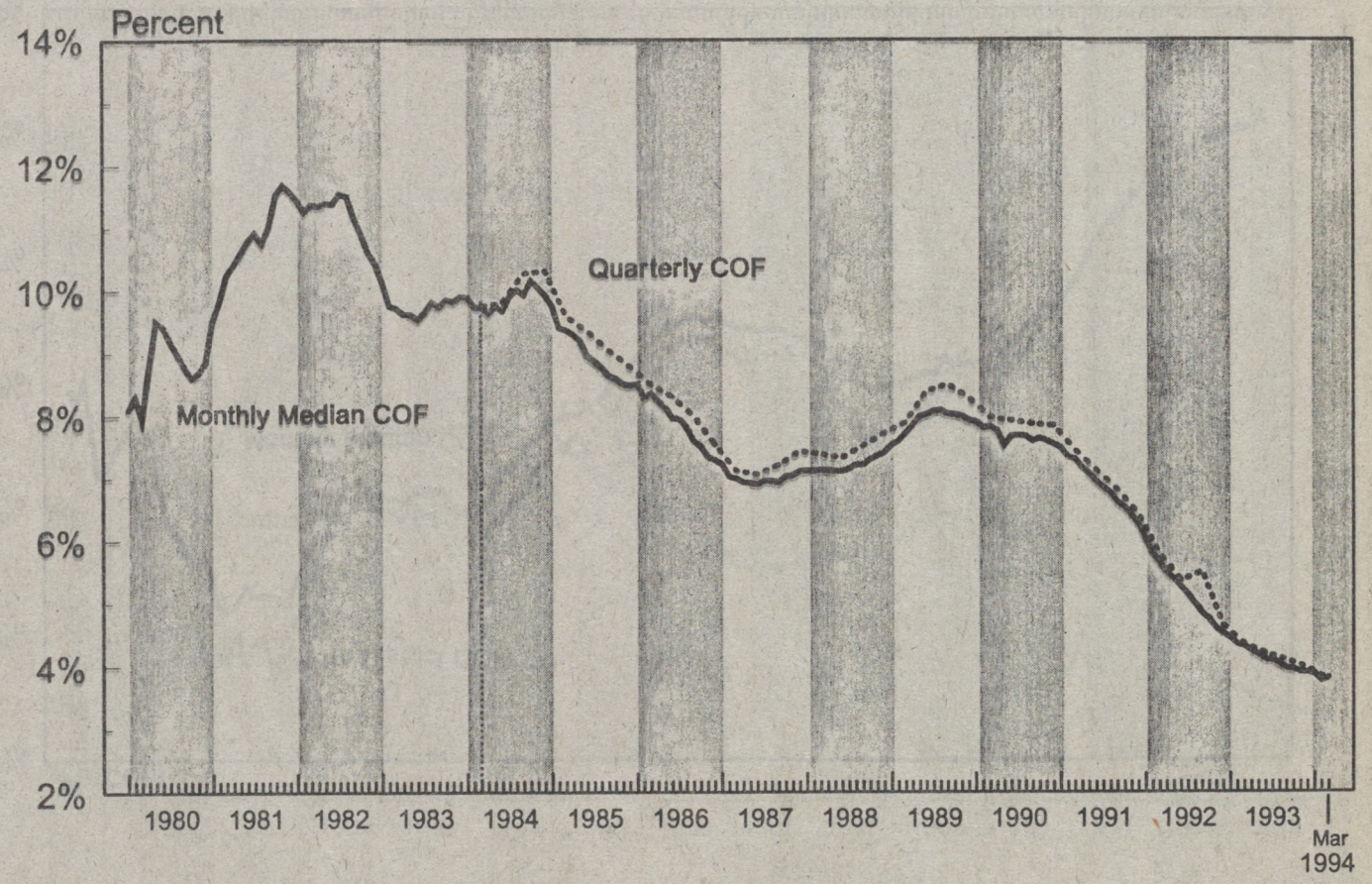
Comparison of 11th District COF and Monthly Median COF



Sources: Federal Home Loan Bank of San Francisco / Office of Thrift Supervision
Office of Thrift Supervision / Data Through March 31, 1994

EXHIBIT 3

Comparison of Quarterly Average COF and Monthly Median COF

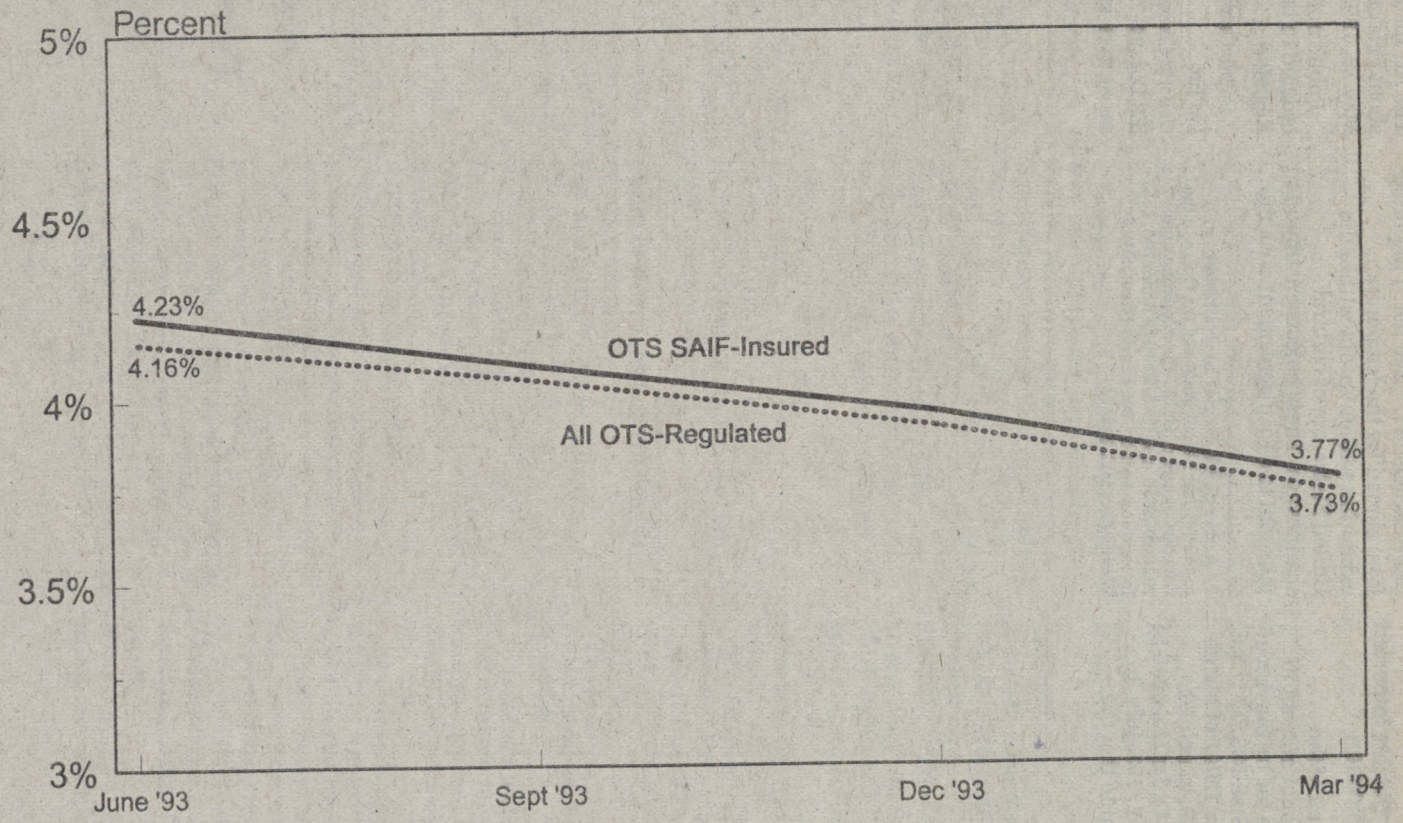


Source: Office of Thrift Supervision

Office of Thrift Supervision / Data Through March 31, 1994

EXHIBIT 4

Comparison of OTS-Regulated, SAIF-Insured QCOF with All OTS-Regulated QCOF



Office of Thrift Supervision / Data Through March 31, 1994

[FR Doc. 94-25630 Filed 10-14-94; 8:45 am]
BILLING CODE 6720-01-C

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects in the exhibit, "GUSTAVE CAILLEBOTTE: URBAN IMPRESSIONIST." (see list [1]) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition of the objects in The Art Institute of Chicago from on or about February 8, 1995, to on or about May 28, 1995, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: October 12, 1994.

Les Jin,

General Counsel.

[FR Doc. 94–25629 Filed 10–14–94; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan of the Office of the General Counsel of USIA. The telephone number is 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547.

Sunshine Act Meetings

Federal Register
Vol. 59, No. 199
Monday, October 17, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 11, 1994, 59 FR 51481.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 12, 1994, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added on the Agenda scheduled for October 12, 1994:

Item No., Docket No., and Company

CAG–2
RP94–87–000, RP94–122–000, RP94–169–000, RP94–195–000, RP94–249–000, RP94–260–000, RP94–305–000, RP94–364–000, Natural Gas Pipeline Company of America
RP93–151–007, RP93–39–004, RP94–202–000 and RP94–309–000, Tennessee Gas Pipeline Company
TM94–14–29–000, Transcontinental Gas Pipe Line Corporation
RP94–150–000, RP94–266–000 and RP94–384–000, ANR Pipeline Company

Lois D. Cashell,
Secretary.
[FR Doc. 94–25714 Filed 10–13–94; 2:43 pm]
BILLING CODE 6717–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 20, 1994.

PLACE: 6th Floor, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Buck Creek Coal Co.*, Docket No. LAKE 93–241. (Issues include whether the judge correctly found that Buck Creek violated 30 C.F.R. § 75.360(a), that the violation was not significant and substantial, and that the violation was caused by Buck Creek's unwarrantable failure to comply with the standard.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: October 12, 1994.

Jean H. Ellen,
Chief Docket Clerk.
[FR Doc. 94–25802 Filed 10–13–94; 3:40 pm]
BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Friday, October 21, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 13, 1994.

Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 94–25798 Filed 10–13–94; 2:43 pm]
BILLING CODE 6210–01–P

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Closed meeting.

PLACE: 450 Fifth Street NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: To be Published.

CHANGE IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Thursday, October 13, 1994, following the 10:00 a.m., open meeting.

Consideration of *amicus* participation.
Regulatory matter regarding financial institution.

Commissioner Roberts, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: October 12, 1994.

Jonathan G. Katz,
Secretary.
[FR Doc. 94–25731 Filed 10–13–94; 2:43 pm]
BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 59, No. 199
Monday, October 17, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 28-94]

Foreign-Trade Zone 9—Honolulu, HI; Application for Expansion

Correction

In notice document 94-22175 beginning on page 46390 in the issue of Thursday, September 8, 1994 make the following corrections:

On page 46391, in the second column, in the second paragraph, in the seventh and eighth lines, "[60 days from date of publication]." should read "November 7, 1994." and in the last line, [75 days from date of publication])." should read "[November 22, 1994])."

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub–No. 12)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services--1994 Update

Correction

In rule document 94-21336, beginning on page 44641, in the issue of Tuesday, August 30, 1994, make the following correction:

§ 1002.2 Filing Fees.

On page 44644, in § 1002.2, in the table, in the first column, in entry (86), "Information" should read "Informal".

BILLING CODE 1505-01-D

federal register

Monday
October 17, 1994

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 880
Coal Formation Fire Control; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 880

RIN 1029–AB77

Coal Formation Fire Control

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

ACTION: Final rule.

SUMMARY: This rule implements a change to the mine fire control activities under the authority of the Act of August 31, 1954, and section 205 of the Appalachian Regional Development Act of 1965. The amendments are due to changes enacted as part of the Energy Policy Act of 1992, Public Law 102–486 (Oct. 24, 1992).

EFFECTIVE DATE: November 16, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas E. Browne, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–208–2661.

SUPPLEMENTARY INFORMATION:

I. Background
II. Organization
III. Final Rules and Disposition of Comments
IV. Procedural Matters

1. Background

A. Summary of the Act of August 31, 1954

Congress recognized that outcrop and underground fires in coal formations waste the fuel resources of the nation and are a menace to the health and safety of the public and surface property. Congress therefore passed the Act of August 31, 1954 (30 U.S.C. 551–558), to provide for the control and extinguishment of outcrop and underground coal fires. The Secretary of the Interior was authorized: (a) to conduct surveys, investigations, and research related to the causes and extent of outcrop and underground fires in coal formations and the methods for control or extinguishment of such fires; to publish the results of any such surveys, investigations, and research; and to disseminate information concerning such methods; and (b) to plan and execute projects for control or extinguishment of fires in coal formations. These projects could be performed on lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof, and on other lands upon obtaining proper consent or the necessary rights or interests in such lands. Federal funds could not be used to control or extinguish fires in any privately owned operating coal mine.

The United States Bureau of Mines was initially responsible for carrying out the provisions of this law, the only Federal program providing funding for the control of coal fires. With the passage of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 et seq., on August 3, 1977, federal funds became available through the Abandoned Mine Land (AML) program to extinguish or control coal fires at eligible AML sites. In 1983, the responsibility for implementing the Act of August 31, 1954, was transferred to OSM.

B. Summary of Section 2504(d), "Coal Formations" of the Energy Policy Act of 1992

The Energy Policy Act of 1992 provided additional authority for States or Indian tribes regarding projects for the control of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551–558), and pursuant to subsection (a)(2) of section 205 of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5). The 1992 amendments authorize the Secretary, acting through the Director of the Office of Surface Mining, to enter into cooperative agreements with States or Indian tribes having approved abandoned mine land programs to plan and execute projects for the control or extinguishment of fires in coal formations. The amendments provide further that for States or Indian tribes with approved AML programs, any matching share contributions are waived. In addition, the $500,000 annual limit on the total amount of funds that can be appropriated to carry out the provisions and purposes of the Act of August 31, 1954, was eliminated. Further, any such cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

Congress did not provide a source of funding for these cooperative agreements to extinguish or control coal formation fires in the Energy Policy Act of 1992. Congress may appropriate funding in the future.

C. Relationship of the Coal Formation Fire Control Program to the OSM AML Program

While the Department of the Interior program to extinguish or control coal outcrop fires predates SMCRA and is not funded with AML monies, it and SMCRA's AML program are interrelated. Often the same people are responsible for managing both the coal outcrop fire and the AML reclamation programs. Funds available through the coal outcrop fire program may be used to control or extinguish fires in any coal formation, except in any privately owned operating coal mine. Funds available through the AML program can only be used to control or extinguish fires involving eligible abandoned mine lands. Section 401(d) of SMCRA states that monies from the AML Fund are only available for the purposes of SMCRA's Title IV-Abandoned Mine Reclamation.

D. Proposed Rules

OSM published proposed rules (58 FR 68494, December 27, 1993) to its regulations implementing changes enacted as part of the Energy Policy Act of 1992, Public Law 102–486 (Oct. 24, 1992). During the comment period on the proposed rules, OSM received comments from two state AML programs.

Pursuant to Executive Order 12866, every Federal agency is required within applicable statutory limits to choose regulatory goals that maximize benefits to society and select the most effective means to achieve these goals. To this end OSM has received comments and recommendations from the public.

All comments received during the comment period were considered in this rulemaking process, and all substantive comments received are addressed in the following preamble.

II. Organization

The regulatory revisions are intended to implement the requirements of the Act of August 31, 1954, consistent with the purposes stated in the Act, its legislative history, and the Secretary's commitment to avoid excessive and burdensome regulations. These final rules implement changes to the coal formation fire control program which was amended as part of the Energy Policy Act of 1992, 102–486 (Oct. 24, 1992). The material is organized into sections which comprise 30 CFR Part 880. At the end of each section, any comments received from interested parties are addressed.

III. Final Rules and Disposition of Comments

Part 880 Mine Fire Control

General

To reflect the new legislative provisions in the Energy Policy Act of 1992 pertaining to coal outcrop fires, OSM is amending Part 880 of Chapter VII, Subchapter R. Part 880 is renamed "Mine Fire Control" to reflect the greater geographic expanse of its provisions. The Abandoned Mine Land Program currently has 23 States and three Indian tribes with approved programs that are now eligible to participate under the new provisions. The old Title—Mine Fire Control, Appalachia—is no longer indicative of its provisions. OSM is amending the authority section to: 1) include the Energy Policy Act of 1992, Pub. L. 102–486, and 2) delete Pub. L. 95–87 (SMCRA) since none of the authority for the coal formation fire control program comes from SMCRA.

The current numbering system used in Part 880 is not consistent with that used elsewhere in OSM regulations. Therefore, the sections have been redesignated as follows:

Existing	*Redesignated*
§ 880.2	§ 880.5
§ 880.3	§ 880.11
§ 880.4	§ 880.12
§ 880.5	§ 880.13
§ 880.6	§ 880.14
§ 880.7	§ 880.15
§ 880.8	§ 880.16

The authority to fund projects to address coal outcrop fires comes from the Act of August 31, 1954 (30 U.S.C. 551–558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5); and the Energy Policy Act of 1992 (Pub. L. 102–486). None of the authority comes from SMCRA. The Energy Policy Act of 1992 did not provide any funds to address coal output fires. AML funds can only be used to control or extinguish fires involving eligible abandoned mine land.

Section 880.2 (Redesignated 880.5) Definitions

The definition of State was deleted as it limited States to those listed in section 403 of the Appalachian Regional Development Act of 1965. Funds made available under the Act of August 31, 1954, and the Energy Policy Act of 1992, can be used in any State or by Indian tribe. The definition for Local authorities was modified to make it clearer. A definition was added for Approved abandoned mine reclamation program stating it means a program meeting the requirements defined in Section 405 of the Surface Mining Control and Reclamation Act of 1977, as amended, and for two terms in the Act of August 31, 1954, Operating coal mine and Inactive coal mine, to relate them to terms in the Surface Mining Control and Reclamation Act of 1977, as amended. Project is defined as "a project whose purpose is to control or extinguish fires in coal formations."

No comments were received on this section.

Section 880.3 (Redesignated 880.11) Qualifications of Projects

This section was revised to include the provision in the Act of August 31, 1954, that Federal funds cannot be used to fund projects to control or extinguish fires in coal formations in privately owned operating coal mines. It was also amended to provide that only projects funded by the Appalachian Regional Development Commission must be submitted by the State to the Commission and receive the approval of that body. This Commission has not funded such projects in many years.

No comments were received on this section.

Section 880.4 (Redesignated 880.12) Cooperative Agreements

This section was revised to state clearly the roles of OSM, States, Indian tribes, and other Federal agencies when extinguishing or controlling coal formation fires under the authority of these regulations. Paragraph 880.12 (a) states that OSM shall, upon application by a State or Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State or Indian tribe to control or extinguish fires in coal formations.

One commenter noted that it did not see a need for OSM to enter into a cooperative agreement with States or Indian tribes that already have existing approved abandoned mine reclamation programs. It argued the outcrop coal fire projects should be handled via the same process as any other "simplified grant project." The commenter went on to say that it can see no practical reason to establish a new procedural framework for this type of activity. The establishment of a new cooperative agreement by OSM to address coal outcrop fires does not comply with Executive Order 12778 which directs Federal agencies to promote "simplification and burden reduction."

OSM has not accepted this comment. Congress directed that OSM shall, upon application by a State or Indian tribe having an approved abandoned mine land program, enter into a cooperative agreement with that State or Indian tribe to control or extinguish coal formation fires. While OSM is committed to simplifying its procedures, OSM believes it is not appropriate to use AML simplified grants to fund projects under the authority of the Act of August 31, 1954, and the Energy Policy Act of 1992 to extinguish or control fires in coal formations. Congress did not identify a source of funds for such projects to extinguish or control fires in coal formations. OSM anticipates that if funds are made available in the future, they will be used to address fires not eligible for AML funding. AML funds cannot be used to address fires on lands not eligible for AML funding such as outcrop fires where no prior mining has occurred. Since the simplified grants are used to fund eligible AML projects, OSM does not want to mix funds for eligible and ineligible AML projects in one funding mechanism. Also, quite likely, these cooperative agreements will have to contain provisions unique to the coal formation fire control program.

Paragraph 880.12(b) authorizes OSM to conduct the fire control projects in those States and with those Indian tribes not having an approved abandoned mine reclamation program. However, upon application by such a State or Indian tribe, OSM may enter into a cooperative agreement with the State or Indian tribe to fund the control or extinguishment of fires in coal formations. The Act of August 31, 1954, requires that if a coal fire is in an inactive coal mine on lands now owned or controlled by the United States or any of its agencies, except where the project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies, that: (1) the State or Indian tribe or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project; or (2) if the State or Indian tribe or the person furnishes evidence satisfactory to the Secretary of an inability immediately to make the matching contribution, that such State or Indian tribe or person pay the Government, within such time as the Secretary shall determine, an amount equal to 50 percent of the cost of planning and executing such project. The Energy Policy Act of 1992 waived this requirement in States or Indian tribes with an approved abandoned mine reclamation program.

The same commenter noted that it believes the intent of Congress (in the 1992 Energy Policy Act) was to make

Federal funds available for the total cost of abatement of coal fires on *all* lands in the United States. OSM does not accept this comment. OSM is proposing 100 percent Federal funding for extinguishment of fires in States or Indian tribes having approved AML programs and on Federal lands. Fire abatement on other lands would be funded by a 50/50 cost-share approach. Paragraph 880.12(b) pertains only to those States or Indian tribes not having an approved AML program. As stated above, Congress only waived the requirement for cost sharing on non-Federal lands for States or Indian tribes having approved AML programs.

Paragraph (c) establishes that OSM is also authorized to conduct fire control projects on lands owned or controlled by the United States, with the cooperation of the agency having jurisdiction thereof. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, OSM may enter into an agreement with the other Federal agency to control or extinguish such fires in coal formations.

The same commenter did not think that OSM (or the Federal agency having jurisdiction for Federal lands) should be the only one conducting coal formation fire control projects on Federal lands. The commenter suggested that States or Indian tribes having responsibility for conducting AML projects on Federal lands within their boundaries should also have responsibility for conducting coal formation fire control projects on Federal lands within their boundaries.

OSM accepts this comment in part. OSM wants the coal outcrop fire program to be run as efficiently and cost effectively as possible. OSM would encourage a State or Indian tribe to be responsible for a coal outcrop fire project on Federal lands if it appears to be more cost effective and if the entity's agreements to conduct AML projects on Federal lands within its boundaries also apply to non-AML funded projects. OSM, not the State or Indian tribe, will decide which projects will be funded under the authorities listed in section 880.1, Scope, within a State's or Indian tribe's border, including projects on Federal lands.

OSM removed paragraph (d) of section 880.4 (redesignated 880.12), which stated that none of the funds contributed by the Government or the State or Indian tribe or the local authorities shall be used for the purchase of sand, clay, stone, or other noncombustible materials used to control or extinguish the fire. A review of the pertinent legislation found no such restriction. In many cases, it might be impossible to extinguish or control a coal fire if Federal or State or Indian tribe funds could not be used to purchase sand, clay, stone, chemical foams, or other noncombustible materials used to control or extinguish the fire.

Section 880.5 (Redesignated 880.13) Project Implementation

The title of section 880.5 (redesignated 880.13) was changed from "Project contract" to "Project implementation." Most of this section contained guidance relative to the contracting procedures to be followed for the extinguishment or control of coal formation fires.

Paragraphs (a) and (b) establish responsibilities for implementing projects to extinguish or control coal formation fires in States or Indian tribes having an approved abandoned mine land program and in other States, Indian lands, or on Federal lands. A commenter suggested deletion of paragraphs (a) (1) and (2) as States or Indian tribes with approved AML programs routinely perform the described tasks for all AML projects. The commenter questioned why the States or Indian tribes need a new cooperative agreement that tells them to do things they do already.

OSM does not accept this comment, as discussed above in relation to paragraph 880.4(a) (redesignated 880.12(a)). Paragraph (a)(2)'s requirement that if OSM assistance is required, OSM will be reimbursed by the State or Indian tribe for all costs incurred including employee's time, must remain in the rule. OSM anticipates that in most instances, aid will be provided by employees whose salaries are paid out of the AML fund. Because AML funds cannot be used to address projects not eligible for AML funding, and because OSM anticipates that most coal formation fire projects will address fires not eligible for AML funding, it will often be necessary for States or Indian tribes to reimburse OSM for any services provided.

OSM removed paragraphs (c) and (d) pertaining to contracts as none of the legislation authorizing this program set out any special contracting requirements. Normal contracting procedures for Federally funded contracts as set out in OSM Directive GMT 10, "Federal Assistance Manual," and other relevant documents are to be followed. In many instances, fire control projects must be initiated quickly to prevent the fire from becoming much larger or to control quickly a threat to public health and safety. States or Indian tribes entering into cooperative agreements with OSM to extinguish or control coal formation fires may need to use more expedited contracting procedures than those used for regular AML projects. States managing their emergency AML programs have often had to develop more expedited contracting procedures. Sometimes new legislation has been required to do so.

Section 880.6 (Redesignated 880.14) Administration of Contributions

OSM modified this section to recognize that, while some projects to extinguish or control coal formation fires may be implemented by OSM, others may be implemented by States or Indian tribes or another Federal agency.

A commenter noted that if outcrop fires were funded as a regular AML grant item, there would be no need to implement any of the changes proposed in this section. OSM does not accept this comment for the reasons previously discussed under section 880.4 (redesignated 880.12).

Section 880.7 (Redesignated 880.15) Assistance by States, Local Authorities, and Private Parties

This section was amended to acknowledge that private parties may, when appropriate, provide assistance.

A commenter suggested that this section be deleted because the language in this section clearly states that all the support for the project work must be provided (upon request) by States, Indian tribes, local, or private parties. OSM does not accept this comment. This section does not require that States, Indian tribes, local authorities, or private parties support for a coal formation fire project. It says that as appropriate, they *may* provide assistance.

IV. Procedural Matters

Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Author

The principal author of this rule is Thomas E. Browne, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Telephone: 202–208–2661.

Executive Order 12866

This rule is not subject to Office of Management and Budget review under Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities. The rule facilitates voluntary cooperative agreements between OSM and States or Indian tribes for the purpose of extinguishing fires in coal formation outcrops.

Executive Order 12778 on Civil Justice Reform

This rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

This rule will have no preemptive effect on State or Tribal laws or regulations.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the AML program regulations pursuant to the Act of August 31, 1954 (30 U.S.C. 551–558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5), and the Energy Policy Act of 1992, Pub. L. 102–486, as described herein, and is not intended to modify the rules or provisions of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of the Act of August 31, 1954 and the Energy Policy Act of 1992.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this revision. Prior to any judicial challenge to the application of the revision, however, administrative procedures must be exhausted.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms that are important to the understanding of this rule are set forth in 30 CFR 880.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) and has made a finding that this rule would not significantly affect the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the OSM Administrative Record, Room 660, 800 N. Capitol St., NW., Washington, DC.

List of Subjects in 30 CFR Part 880

Appalachia, Fire control or extinguishment, Government contracts, Grant programs—Natural Resources, Mine safety and health.

Dated: August 18, 1994.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

Accordingly, 30 CFR Part 880 is amended as set forth below:

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R—ABANDONED MINE LAND RECLAMATION

1. The Title of Part 880 is revised to read as follows:

PART 880—MINE FIRE CONTROL

2. The authority citation for part 880 is revised to read as follows:

Authority: 30 U.S.C. 551–558, 40 U.S.C. App. 205, and Pub. L. 102–486.

3. Sections 880.2 through 880.8 are redesignated as follows:

Old Section	*New Section*
880.2	880.5
880.3	880.11
880.4	880.12
880.5	880.13
880.6	880.14
880.7	880.15
880.8	880.16

4. Section 880.1 is revised to read as follows:

§ 880.1 Scope.

Projects for the control or extinguishment of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551–558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5), and the Energy Policy Act of 1992 (Pub. L. 102–486).

5. Newly designated § 880.5 is amended by removing paragraph (c); by redesignating paragraph (d) as (c) and revising it; and adding new paragraphs (d), (e), (f), and (g) to read as follows:

§ 880.5 Definitions.

* * * * *

(c) *Local authorities* means the State or local governmental bodies organized and existing under the authority of State laws, including, but not limited to, a county, city, township, town, or borough;

(d) *Approved abandoned mine reclamation program* means a program meeting the requirements defined in Section 405 of PL 95–87, as amended;

(e) *Operating coal mine* means a coal mine for which the regulatory authority has not terminated its jurisdiction as set out under 30 CFR 700.11(d)(1);

(f) *Inactive coal mine* means a coal mine for which the regulatory authority has terminated its jurisdiction as set out under 30 CFR 700.11(d)(1);

(g) *Project* means a project whose purpose is to control or extinguish fires in coal formations.

6. Newly designated § 880.11 is revised to read as follows:

§ 880.11 Qualifications of projects.

The purpose of all projects is to prevent injury and loss of life, protect public health, conserve natural resources, or protect public and private property. Federal funds cannot be used to fund projects in privately owned operating coal mines. Further, any such cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

7. Newly designated § 880.12 is revised to read as follows:

§ 880.12 Cooperative agreements.

(a) OSM shall, upon application by a State or Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State or Indian tribe to control or extinguish fires in coal formations.

(b) OSM may conduct coal formation fire control projects in States not having an approved abandoned mine reclamation program or on Indian lands if the tribe does not have an approved abandoned mine reclamation program. However, upon application by such a State or Indian tribe, OSM may enter into a cooperative agreement with the State or Indian tribe and the local authorities to control or extinguish fires in coal formations. OSM shall require in connection with any project for the control or extinguishment of fires in any inactive coal mine on lands not owned or controlled by the United States or any of its agencies, except where such project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies in such a State that: (1) the State or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project, or (2) if such State or person furnishes evidence satisfactory to the Secretary of an inability to make the immediately matching contribution herein provided for, that such State or person pay the Government, within such time as the Secretary shall determine, an amount equal to 50 percent of the cost of planning and executing such project. If the project is funded by the Appalachian Regional Commission, the Federal share shall not exceed 75 percent of the cost of the project.

(c) OSM is authorized to conduct fire control projects on lands owned or controlled by the United States. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, or a State or Indian tribe having an approved abandoned mine reclamation program and agreements with Federal agencies to conduct such projects on Federal lands within its boundaries, OSM may enter into an agreement with either the other Federal agency or State or Indian tribe to control or extinguish fires in coal formations. There are no cost sharing requirements for this type of project.

8. Newly designated § 880.13 is revised to read as follows:

§ 880.13 Project implementation.

(a) Under cooperative agreements with States or Indian tribes having an approved AML reclamation plan:

(1) States or Indian tribes will design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts.

(2) If OSM assistance is required, OSM will be reimbursed by the State or Indian tribe for all costs incurred, including OSM employees' time.

(b) In States and on Indian lands under the jurisdiction of tribes not having approved AML reclamation plans and on Federal lands, OSM has the authority to design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts. OSM, may, at its discretion, delegate authority to perform this work to States or Indian tribes or other Federal agencies.

9. Newly designated § 880.14 is revised to read as follows:

§ 880.14 Administration of contributions.

Financial contributions made by a State or Indian tribe, local authorities, or another Federal agency will be deposited in a trust fund in the Treasury of the United States. These contributions can be withdrawn by OSM and expended by the organization executing the project (OSM, a State, Indian tribe, or another Federal agency) pursuant to the cooperative agreement as necessary in performance of the project work. Withdrawals and expenditures from the trust fund will be made only for costs connected with the project. Any part of the money contributed by a State, Indian tribe, local authority, or another Federal agency for an individual project that remains unexpended upon the completion or termination of project will be returned to the State, Indian tribe, local authority, or other Federal agency.

10. Newly designated § 880.15 is amended by revising the section heading; by revising the introductory paragraph; and by revising paragraphs (a), (b) and (g) to read as follows:

§ 880.15 Assistance by States or Indian tribes, local authorities, and private parties.

States Indian tribes, local authorities, or private parties, as may be appropriate in each particular project, and without cost or charge to project costs may:

(a) Provide assistance in planning and engineering the project, as requested by the organization executing the project;

(b) Furnish best available information, data, and maps on the location of the project and the location of water, sewer, and power lines within the project area, and maps or plats showing properties and lands on which releases, consents, or rights or interests in lands have been obtained;

* * * * *

(g) Furnish noncombustible materials suitable for implementing the planned fire control work. This material may be waste or borrow material obtained at the site or brought in from off-site.

* * * * *

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federal register

Monday
October 17, 1994

Part III

Department of Health and Human Services

Social Security Administration

20 CFR Parts 404 and 416

Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism

AGENCY: Social Security Administration, HHS.

ACTION: Notice of intent with request for comments.

SUMMARY: The Social Security Independence and Program Improvements Act of 1994 contains provisions affecting benefits under titles II and XVI of the Social Security Act to individuals whose medically determined drug addiction or alcoholism (DA&A) is a contributing factor material to the finding of disability. Most of these provisions are effective for benefits payable beginning March 1, 1995. Certain implementing regulations must be issued by February 11, 1995, 180 days after enactment. The Secretary of Health and Human Services (the Secretary) is requesting early public comment on several important policy issues. The Department of Health and Human Services (HHS) and the Social Security Administration (SSA) plan to use the comments, along with other public views and information obtained, to help formulate rules necessary to implement some provisions. For provisions not requiring final regulations by February 1995, principally representative payment provisions, HHS plans to issue a Notice of Proposed Rulemaking to solicit public comments.

DATES: To be sure your comments are considered, we must receive them no later than November 16, 1994.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966–2830, or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1758; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

I. Background

Section 201 of the Social Security Independence and Program Improvements Act of 1994, Public Law (Pub. L.) 103–296, enacted August 15, 1994, contains several provisions affecting the payment of Social Security and supplemental security income (SSI) benefits to individuals whose medically determined drug addiction or alcoholism (DA&A) is a contributing factor material to the finding of disability. (For ease of reference in this Notice of Intent, we refer to these individuals as being "disabled based on DA&A.") The provisions may affect individuals currently receiving benefits, as well as those awarded benefits in the future.

The law places new restrictions on Social Security and SSI benefit payments to individuals disabled based on DA&A, which are intended to discourage a beneficiary from using Social Security or SSI benefits to support an addiction. It also requires the Secretary to promulgate regulations necessary to implement the statutory provisions by February 11, 1995.

HHS decided to request advance comments on the provisions involving nonpayment or termination of benefits under section 201 of Public Law 103–296 for several reasons. Congress mandated in the law that in promulgating the required regulations we consult with professionals in the field of DA&A treatment. This consultation must take place before the regulations can be drafted. We also believe it warranted that we obtain public comment on the novel program requirements of the law and policy issues at the same time. In addition, it is clear from the law that HHS must have regulations in place by February 11, 1995. Accordingly, we are seeking advance public comments to be used in the initial formulation of the rules through this request. In addition, we have requested individual comments directly from various treatment professionals and advocacy groups around the country. We are holding and attending meetings with various treatment professionals, representatives of referral and monitoring agencies (RMAs), and others with knowledge of DA&A-related issues to discuss, in general, contemporary treatment philosophies and receive the individual views of those in attendance.

II. Summary of DA&A Provisions Prior to the Passage of Public Law 103–296

Prior to the passage of Public Law 103–296, there were no special program rules for Social Security DA&A beneficiaries. SSI beneficiaries disabled based on DA&A were required to receive payment through a representative payee. These SSI beneficiaries are required to undergo treatment, when available, at approved facilities. They also must comply with the terms of their treatment program and take part in the monitoring and testing procedures established by the Secretary.

III. Major DA&A-Related Provisions of Public Law 103–296 Involving Nonpayment or Termination of Benefits

A. Payment Limitation

The payment of SSI benefits will be limited to 36 months for individuals disabled based on DA&A. Also, the payment of Social Security benefits will be limited to 36 months, but this limitation will begin with the first month for which treatment is available, and only months for which treatment is available are counted in the 36-month period. The 36-month DA&A payment restrictions for both Social Security and SSI benefits will cease to be effective with respect to benefits for months after September 2004. Medicare and Medicaid benefits will continue as long as a DA&A beneficiary whose benefits have been suspended for less than 12 months, or terminated after 36 months, continues to be disabled and otherwise eligible. Dependents' benefits will continue as long as the DA&A beneficiary whose benefits have been suspended, or terminated after 12 months of noncompliance or the 36-month payment limit, continues to be disabled and otherwise eligible. The payment limit will not apply to individuals who are disabled independent of their DA&A. Suspension months will not be counted in the 36 months.

B. Suspension for Noncompliance

Benefits will be suspended for noncompliance with treatment for both Social Security and SSI beneficiaries, beginning the first month following the month beneficiaries are notified of such noncompliance. Once an individual is determined to be in noncompliance and benefits are suspended, benefits must continue to be suspended until after the beneficiary demonstrates compliance

with treatment requirements for specified periods—a minimum of 2 months, 3 months, and 6 months, respectively, for the first, second, and third or subsequent instances of noncompliance. Suspension of benefits for 12 consecutive months for noncompliance will result in termination of benefits.

C. Treatment Requirement

The treatment participation requirement, which now applies only to SSI beneficiaries, will be extended to Social Security beneficiaries disabled based on DA&A. Additionally, SSA will be required to provide for the monitoring of progress in treatment. The provision is to be implemented beginning after the effective date with newly adjudicated cases and Social Security beneficiaries already on the rolls with a primary diagnosis of DA&A and extended to other applicable beneficiaries as quickly as possible.

D. Referral and Monitoring Agencies (RMAs)

Contracts with RMAs are in place in most States as a result of statutory requirements that the Secretary provide for the monitoring and testing of title XVI DA&A beneficiaries. Pursuant to Public Law 103–296, new RMA contracts must be established in each State and regulations must be issued which define appropriate treatment and establish guidelines to be used to review and evaluate compliance and measure progress for individuals disabled based on DA&A. The new contracts are needed in part because the RMAs will handle additional workloads (i.e., title II beneficiaries) and will take on additional functions. New regulations are required by the legislation to implement the new program requirements.

E. Retroactive Benefits

The law requires incremental payment, on a prorated basis, of retroactive Social Security and SSI benefits to individuals disabled based on DA&A, with a limited exception for those who have outstanding debts related to housing and are at high risk of homelessness. Retroactive benefits due an individual whose entitlement terminates will continue in prorated amounts until they are fully paid. No retroactive payments will be made in periods of suspension for noncompliance with treatment requirements. In addition, if a beneficiary dies without having received all retroactive benefits, the unpaid amount is treated like any other underpayment.

IV. Policy Questions

The statutory provisions regarding nonpayment and termination of benefits present many novel policy issues. SSA has made separate contacts with DA&A treatment professionals to obtain views on issues of treatment, compliance and monitoring. In addition, SSA is facing many operational issues in terms of putting the processes and systems in place to implement these provisions. This request for public comments is focused on the policy issues which, in our opinion, have a broad public import, and on which SSA will benefit from receiving a wide range of public views.

The questions which follow may necessitate different responses depending on whether the answer relates to alcoholism or to different types of drug addiction. SSA requests that commenters identify to which type(s) of addiction a particular response applies. Public comments are requested on the following policy issues:

A. Defining Appropriate Treatment

The new legislation requires that individuals disabled based on DA&A undergo appropriate substance abuse treatment. Currently, there are no specific guidelines in the regulations which define "appropriate treatment." HHS defines "appropriate treatment" at § 416.937 for SSI cases as "recognized medical or other professional procedures for treatment of drug addiction or alcoholism which is carried out at or under the supervision of, an approved institution or facility (or facilities). This treatment may include—(a) Medical examination and treatment; (b) Psychiatric, psychological and vocational counselling; or (c) Other appropriate services for drug addiction or alcoholism." Instead of requiring the use of specific regulatory guidelines, SSA has directed employees of treatment facilities or of RMAs under contract with SSA to make judgments in determining appropriate treatment.

SSA is considering adopting a policy defining "appropriate substance abuse treatment" for individuals disabled based on DA&A in general terms under which SSA would continue to rely on the judgments of treatment professionals. For example, a general definition of appropriate treatment could refer to substance abuse treatment which serves the need of the individuals in the least restrictive setting. Accordingly, appropriate treatment would be determined on the basis of a comprehensive assessment in which each individual's needs are defined and compliance with such individualized treatment would be overseen by an approved institution or facility as defined in regulations. SSA may also incorporate the examples from our current regulations cited above.

Questions: What is considered "appropriate" substance abuse treatment? What factors should be considered in placing an individual in treatment? What ranges of treatment modalities fall within an appropriate treatment spectrum for the most common types of substance abuse problems? Recognizing that some individuals may abuse more than one substance, how should "appropriate treatment" be defined when there is more than one substance involved? With the objective of placing as many clients as possible in appropriate treatment, how should the parameters of appropriate treatment be defined, i.e., what would be the circumstances under which the client would not benefit from treatment? Should the regulations refer generally to individual assessments being made by professionals or should specific treatment guidelines be included?

B. Availability of Treatment

The legislation requires the disabled individual to undergo treatment which is "available" but does not define the term. The current substance abuse treatment requirements are applicable only to title XVI beneficiaries, and not to title II beneficiaries. The current regulations at § 416.939 provide guidance on when treatment for DA&A is considered available for title XVI beneficiaries. Generally, SSA determines whether treatment is available based on: obtaining a treatment vacancy at no cost to the individual; the location of the facility; availability and cost of transportation to the individual; the individual's general health; the individual's particular condition and circumstances; and, the treatment that is required.

SSA is considering the adoption of the same guidelines for determining the availability of treatment to title II and title XVI beneficiaries. However, we would like to receive any comments on whether these guidelines are adequate or if other factors should be considered.

Questions: How should SSA define available substance abuse treatment? Should availability take into consideration the client's access to transportation, education, familial situation and/or health? What other factors should be considered, if any? Should clients seeking readmission to treatment after a period of noncompliance be given priority for a

treatment slot over other clients awaiting initial intake into treatment?

C. Defining and Measuring Progress

Currently, SSA has no rules for defining and measuring progress expected to be achieved by participants in treatment programs. The law requires that such regulations be developed in establishing guidelines used to review and evaluate compliance with treatment. Treatment professionals may have differing views and opinions on defining and measuring progress. Progress is related to compliance. Currently, providers determine treatment and measures of progress. The difficult task for SSA is to determine to what extent it can be externally validated. SSA is considering defining parameters of progress as clinical measures, such as attendance, participation in activities, changes in physical and mental limitations, degree of abstinence, drug testing results, attitude, cooperation, mental/psychological status and instances of relapse.

Questions: What constitutes progress in substance abuse treatment? What are the most effective and reliable means of measuring progress in substance abuse treatment? How can these be quantified and reported regularly in a cost-effective mode? What methods currently exist for validating progress with treatment?

D. Evaluating Compliance With Treatment

Currently, there are no specific guidelines in the regulations to evaluate beneficiaries' compliance with the treatment requirements. Determinations on compliance generally have been based on judgments made by employees of the treatment facilities or of the RMAs under contract with SSA. The statute requires that the Secretary issue regulations establishing guidelines for evaluating whether individuals entitled to benefits based on DA&A are in compliance and progressing with treatment requirements.

There are a wide range of issues that pertain to evaluating compliance with treatment, including views on how to define success within a treatment modality. For example, some believe that individuals can be expected to undergo periods of drug or alcohol use even though they are following a treatment plan in large part.

Questions: What are the factors we should use to evaluate compliance with substance abuse treatment? How should a relapse be treated or evaluated for purposes of compliance? Are there varying degrees of relapse which may or may not indicate noncompliance? While one isolated incident may not be defined as noncompliance, what number of "second chances" should be provided? Should positive drug or alcohol tests be used as a tool to measure compliance? If yes, how, i.e., a single test, a certain number of tests, or tests in conjunction with other indicators? If other indicators should be factored in, what are those indicators? How reliable are these tests? Are there other types of testing or criteria that could be used to monitor compliance with the substance abuse treatment requirements? How frequently should testing be done? What are the customary and reasonable charges for testing? How and by whom are test specimens (blood, urine, breath) collected? Should this be done outside a clinical or laboratory setting, and can it be done properly and effectively outside such a setting? If so, please provide examples of appropriate nonclinic-based procedures.

How should SSA evaluate compliance with Alcoholics Anonymous and Narcotics Anonymous? SSA is considering a requirement for individuals to get signed statements of attendance.

E. Frequency of Monitoring by the RMA

Currently, the treatment requirements have been applicable only to title XVI beneficiaries, and not to title II beneficiaries. Accordingly, although there are RMAs under contract in most States, they serve only the title XVI population and the referral and monitoring work presently being performed is not as extensive as the new legislation requires. There are no regulations regarding the referral and monitoring functions.

The law requires SSA to establish one or more RMAs in each State. One function of the RMA will be to monitor progress and compliance with the treatment program. Currently, SSA's contracts with RMAs require monitoring weekly for the 1st month; bi-weekly for the 2nd and 3rd months; then monthly for the 4th through 12th months of treatment. SSA is considering a requirement that, initially, each client be monitored bi-weekly for the first 3 months and monthly thereafter. Ongoing monthly monitoring is consistent with legislative requirements that benefits can be suspended on a monthly basis.

Monthly monitoring results in considerable administrative cost to the Agency. If reliable monitoring can be accomplished on a quarterly or semi-annual basis, the net administrative cost would be reduced.

Questions: SSA would appreciate receiving views on whether a monitoring schedule other than monthly could be more effective. In other words, how frequently should the average DA&A beneficiary be monitored by SSA's RMA to assure the beneficiary is in compliance with the terms and conditions for treatment, including measuring progress in treatment? Should frequency of monitoring change in the course of the treatment program? If so, under what circumstances?

F. Defining "Good Cause" for Failure To Comply

Currently, payments are suspended if a title XVI beneficiary entitled to disability based on DA&A fails to comply with available treatment. When benefits are suspended for noncompliance, the suspension continues until the individual undergoes the required treatment and compliance is verified or the benefits are terminated (see § 416.1326). There are no current title II provisions requiring treatment for DA&A or sanctioning noncompliance with treatment. There also are no rules for establishing "good cause" for not complying with treatment. However, "good cause" is an established concept that is applied in other contexts in evaluating the fulfillment of program requirements in both the Social Security and SSI benefits programs.

The legislation extends the requirement for suspension of benefits for noncompliance to title II beneficiaries. Individuals entitled to a benefit based on DA&A are required to comply with substance abuse treatment requirements. A beneficiary who fails to comply with treatment requirements will have his/her benefits suspended beginning with the first month after he/she has been notified of the determination of noncompliance. SSA is considering implementing regulations which would provide a "good cause" exception to this requirement and which could set forth examples of "good cause" for not complying with the treatment requirement. There are a multitude of possible definitions of "good cause," ranging from hospitalization or other health-related events to personal emergencies such as a death in the family or illness of a family member. On the other hand, inability to comply due to ramifications resulting from the abuse of drugs or alcohol should not be "good cause."

Questions: What should constitute "good cause" for failing to comply with prescribed substance abuse treatment? What should not constitute "good cause?" Are there certain obstacles to complying with treatment that these individuals should be able to overcome?

G. Costs and Benefits

SSA is not now in a position to assess the societal costs and benefits of the provisions in a manner that would produce specific quantitative estimates for public comment. At this time, we cannot predict the future effect of encouraging treatment and rewarding compliance versus noncompliance with the program requirements and the resulting suspension or termination. For example, it is possible that significantly more beneficiaries will successfully complete treatment as a result of the new requirements. Because of the limitation of existing data and analytic models as well as limited Agency resources, SSA cannot provide a quantitative estimate of such effects. We intend to publish in the **Federal Register** at the time of promulgation of the interim final rule, an evaluation of the prospective quantifiable and non-quantifiable costs and benefits of the rule and of reasonable alternative approaches considered in the development of the rules. At this time, we are limited to a description of some of the potential costs and benefits that will need to be considered.

Benefits

The first type of benefit which should be realized from these new program requirements is an increase in the number of substance-dependent individuals receiving treatment. Other potential benefits to society include a reduction in Social Security and SSI program expenditures due to the 36-month payment restriction and suspension of benefits for noncompliance with treatment requirements. The number of individuals receiving treatment may grow because these requirements would make benefits conditioned on compliance with available treatment. To the extent that treatment is successful, these individuals may realize improved mental and/or physical health, reducing use of public and private health facilities. They may be more receptive and prepared for vocational rehabilitation and/or return to work. Although reductions in substance dependency offer a broad array of benefits to society, the difficulties of quantifying and valuing them lead us to concentrate our efforts in this benefits assessment on changes in the number of individuals receiving treatment and the likely reductions in their substance dependencies.

Costs

Savings to the Social Security and SSI programs will not accrue without a significant expenditure of Federal administrative resources. SSA personnel must closely track individuals throughout their months of eligibility. They will process suspensions and terminations, select representative payees, and respond to reports of noncompliance with required treatment.

SSA will enter into contracts with RMAs to assess treatment needs of beneficiaries, refer beneficiaries for treatment, monitor treatment, and report to SSA on beneficiary compliance (including progress with the treatment plan). The RMA structure required by the statute will represent a significant program cost.

Additionally, the substance abuse treatment to which these individuals are referred will have a significant cost. Including this cost in the analysis is appropriate to the extent that the benefits of increased participation in treatment programs is also included. Beneficiaries generally cannot be required to pay for the treatment themselves. Therefore, the cost of treatment will need to be absorbed by existing governmental sources, including Medicare and Medicaid, and private sources.

The administrative requirements for implementation of the provisions may result in "burdens" on members of the public (e.g., completion of forms and types of information collection) which are subject to clearance by the Office of Management and Budget (OMB). If such is the case, required clearance will be obtained from OMB prior to implementation of interim final regulations.

The costs and benefits of the provisions are driven by the statutory requirements. This Department would welcome any comments or suggestions for reducing administrative costs and reducing the burden on individuals, RMAs, substance abuse treatment providers and other entities. Such information will help us refine the necessary policies and procedures. Our aim is to carry out the Congressional mandate at the least possible cost and burden to organizations and members of the public.

V. Request for Comments

To maximize public participation early in the rulemaking process, we invite you to comment on the cost and benefit issues raised in this request, particularly with respect to any policy recommendations in response to this solicitation. In addition, we solicit comments on particular policy issues, such as the definition of "compliance," "good cause," and "appropriate treatment." Finally, we request comments on any other aspects of the provisions of the provisions of the law related to the nonpayment and termination of benefits on behalf of individuals disabled based on DA&A.

VI. Next Steps

After analysis of the comments received in response to this request, as well as the other information obtained, HHS plans to develop and publish interim final regulations to implement the regulations required to be in place by February 11, 1995. In the interim final regulations, we will provide another opportunity for public comment. After the end of that comment period, we plan to analyze the comments and determine whether changes to our interim final regulations are warranted.

VII. Authority

The authority citation for this request is: Secs. 205(a), 221, 225, 1102, 1611, 1614, 1631, and 1633 of the Social Security Act; 42 U.S.C. 405(a), 421, 425, 1302, 1382, 1382c, 1383 and 1383b; and sec. 201 of Pub. L. 103–296.

Dated: October 7, 1994.

Shirley S. Chater,

Commissioner of Social Security.

Approved: October 12, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 94–25747 Filed 10–13–94; 1:17 pm]

BILLING CODE 4190–29–P

federal register

Monday
October 17, 1994

Part IV

The President

Executive Order 12931—Federal Procurement Reform

Presidential Determination No. 94–56

Presidential Determination No. 94–58

Presidential Determination No. 95–1

Memorandum of October 7, 1994

Memorandum of October 13, 1994

Federal Register
Vol. 59, No. 199
Monday, October 17, 1994

Presidential Documents

Title 3—

The President

Executive Order 12931 of October 13, 1994

Federal Procurement Reform

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure effective and efficient spending of public funds through fundamental reforms in Government procurement, it is hereby ordered as follows:

Section 1. To make procurement more effective in support of mission accomplishment and consistent with recommendations of the National Performance Review, heads of executive agencies engaged in the procurement of supplies and services shall:

(a) Review agency procurement rules, reporting requirements, contractual requirements, certification procedures, and other administrative procedures over and above those required by statute, and, where practicable, replace them with guiding principles that encourage and reward innovation;

(b) Review existing and planned agency programs to assure that such programs meet agency mission needs;

(c) Ensure that procurement organizations focus on measurable results and on increased attention to understanding and meeting customer needs;

(d) Increase the use of commercially available items where practicable, place more emphasis on past contractor performance, and promote best value rather than simply low cost in selecting sources for supplies and services;

(e) Ensure that simplified acquisition procedures are used, to the maximum extent practicable, for procurements under the simplified acquisition threshold in order to reduce administrative burdens and more effectively support the accomplishment of agency missions;

(f) Expand the use of the Government purchase card by the agency and take maximum advantage of the micro-purchase authority provided in the Federal Acquisition Streamlining Act of 1994 by delegating the authority, to the maximum extent practicable, to the offices that will be using the supplies or services to be purchased;

(g) Establish clear lines of contracting authority and accountability;

(h) Establish career education programs for procurement professionals, including requirements for successful completion of educational requirements or mandatory training for entry level positions and for promotion to higher level positions, in order to ensure a highly qualified procurement work force;

(i) Designate a Procurement Executive with agency-wide responsibility to oversee development of procurement goals, guidelines, and innovation, measure and evaluate procurement office performance against stated goals, enhance career development of the procurement work force, and advise the agency heads whether goals are being achieved; and

(j) Review existing and planned information technology acquisitions and contracts to ensure that the agency receives the best value with regard to price and technology, and consider alternatives in cases where best value is not being obtained.

Sec. 2. The Director of the Office of Personnel Management, in consultation with the heads of executive agencies, shall ensure that personnel policies and classification standards meet the needs of executive agencies for a professional procurement work force.

Sec. 3. The Administrator of the Office of Federal Procurement Policy, after consultation with the Director of the Office of Management and Budget, shall work jointly with the heads of executive agencies to provide broad policy guidance and overall leadership necessary to achieve procurement reform, including, but not limited to:

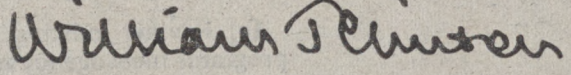
(a) Coordinating Government-wide efforts;

(b) Assisting executive agencies in streamlining guidance for procurement processes;

(c) Identifying desirable Government-wide procurement system criteria; and

(d) Identifying major inconsistencies in law and policies relating to procurement that impose unnecessary burdens on the private sector and Federal procurement officials, and, following coordination with executive agencies, submitting necessary legislative initiatives to the Office of Management and Budget for the resolution of such inconsistencies.

Sec. 4. Executive Order No. 12352 is revoked.



THE WHITE HOUSE,
October 13, 1994.

[FR Doc. 94–25837
Filed 10–13–94; 4:48 pm]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No 94–56 of September 30, 1994

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

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $30,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the unexpected, urgent needs of refugees, returnees, and conflict victims from Rwanda and Burundi. These funds may be contributed to international and nongovernmental organizations, as appropriate.

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

William J. Clinton

THE WHITE HOUSE,
Washington, September 30, 1994.

[FR Doc 94–25808
Filed 10–13–94, 4:26 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–58 of September 30, 1994

Assistance for Independent States of the Former Soviet Union

Memorandum for the Secretary of State

Pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306), I hereby determine that the provision of funds to the Government of Russia is in the national security interest of the United States.

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

William J. Clinton

THE WHITE HOUSE,
Washington, September 30, 1994.

[FR Doc. 94–25809
Filed 10–13–94; 4:27 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 95–1 of October 1, 1994

Determination of FY 1995 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended

Memorandum for the Secretary of State

In accordance with Section 207 of the Immigration and Nationality Act ("the Act") (8 U.S.C. 1157), as amended and after appropriate consultation with the Congress, I hereby make the following determinations and authorize the following actions:

The admission of up to 112,000 refugees to the United States during FY 1995 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 1995 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 110,000 funded admissions shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this determination and in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include persons admitted to the United States during FY 1995 with Federal refugee resettlement assistance under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988, as contained in Section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members); provided further that the number allocated to the former Soviet Union shall include persons admitted who were nationals of the former Soviet Union, or in the case of persons having no nationality, who were habitual residents of the former Soviet Union, prior to September 2, 1991:

Africa	7,000
East Asia	40,000
Former Soviet Union/Eastern Europe	48,000
Latin America/Caribbean	8,000
Near East/South Asia	5,000
Unallocated (funded)	2,000

The 2,000 unallocated federally funded numbers shall be allocated as needed. Unused admissions numbers allocated to a particular region within the 110,000 federally funded ceiling may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the judiciary committees of the Congress prior to any such use of the unallocated numbers or reallocation of numbers from one region to another.

The 2,000 privately funded admissions are not designated for any country or region and may be used for refugees of special humanitarian concern to the United States from any region provided that private resources are available to fund the reasonable cost of their admission and resettlement.

Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

An additional 10,000 refugee admissions numbers shall be made available during FY 1995 for the adjustment to permanent resident status under Section 209(b) of the Act (8 U.S.C. 1159(b)) of aliens who have been granted asylum in the United States under Section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest. An estimated 8,500 aliens were granted asylum during FY 1994 under Section 208 of the Act.

In accordance with Section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)) and after appropriate consultation with the Congress, I also specify that, for FY 1995, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Vietnam

b. Persons in Cuba

c. Persons in Haiti

d. Persons in the former Soviet Union

You are authorized and directed to report this Determination to the Congress immediately and to publish it in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, October 13, 1994.

cc The Attorney General

The Secretary of Health and Human Services

[FR Doc. 94–25810
Filed 10–13–94; 4:28 pm]
Billing code 4710–10–M

Presidential Documents

Memorandum of October 7, 1994

Vessel War Risk Insurance Under Title XII of the Merchant Marine Act, 1936

Memorandum for the Secretary of Defense [and] the Secretary of Transportation

By virtue of the authority vested in me by section 1205 of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1285), I hereby approved the procurement of any insurance within the scope of section 1205 from the Secretary of Transportation by the Department of Defense for vessels under charter, contract, tender, or agreement with the Department of Defense, entering the territorial waters of Haiti excluded under commercial war risk trading warranties, whenever the Secretary of Defense determines such insurance to be necessary. This approval is effective for 60 days.

The Secretary of Transportation is directed to bring this approval to the immediate attention of all operators.

William J. Clinton

THE WHITE HOUSE,
Washington, October 13, 1994.

[FR Doc 94–25790
Filed 10–13–94; 3:21 pm]
Billing code 4710–10–M

Presidential Documents

Memorandum of October 13, 1994

Continued Commitment to Small, Small Disadvantaged, and Small Women-Owned Businesses in Federal Procurement

Memorandum for the Heads of Executive Departments and Agencies [and] the President's Management Council

It is the policy of the Federal Government that a fair proportion of its contracts be placed with small, small disadvantaged, and small women-owned businesses. Such businesses should also have the maximum practicable opportunity to participate as subcontractors in contracts awarded by the Federal Government consistent with efficient contract performance. I am committed to the continuation of this policy. Therefore, I ask that you encourage the use of various tools, including set-asides, price preferences, and section 8(a) of the Small Business Act (15 U.S.C. 637(a)), as necessary to achieve this policy objective.

The Federal Acquisition Streamlining Act of 1994 authorizes civilian agencies to utilize set-aside procurements for small disadvantaged businesses. The Act also, for the first time, establishes goals for contracting with small women-owned businesses. These provisions, along with others in the Act, will provide greater access to Federal Government business opportunities for small, small disadvantaged, and small women-owned businesses. Department and agency heads should ensure that efforts to streamline acquisition procedures encourage the participation of these businesses in Federal procurements.

This memorandum shall be published in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, October 13, 1994.

[FR Doc. 94–25838
Filed 10–13–94; 4:49 pm]
Billing code 3195–01–P

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

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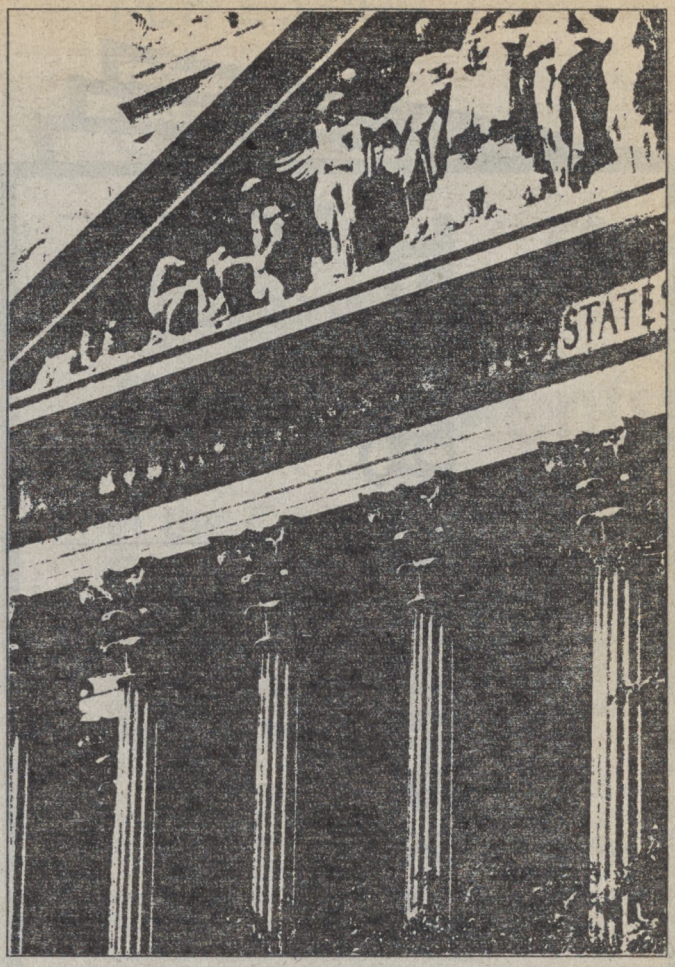

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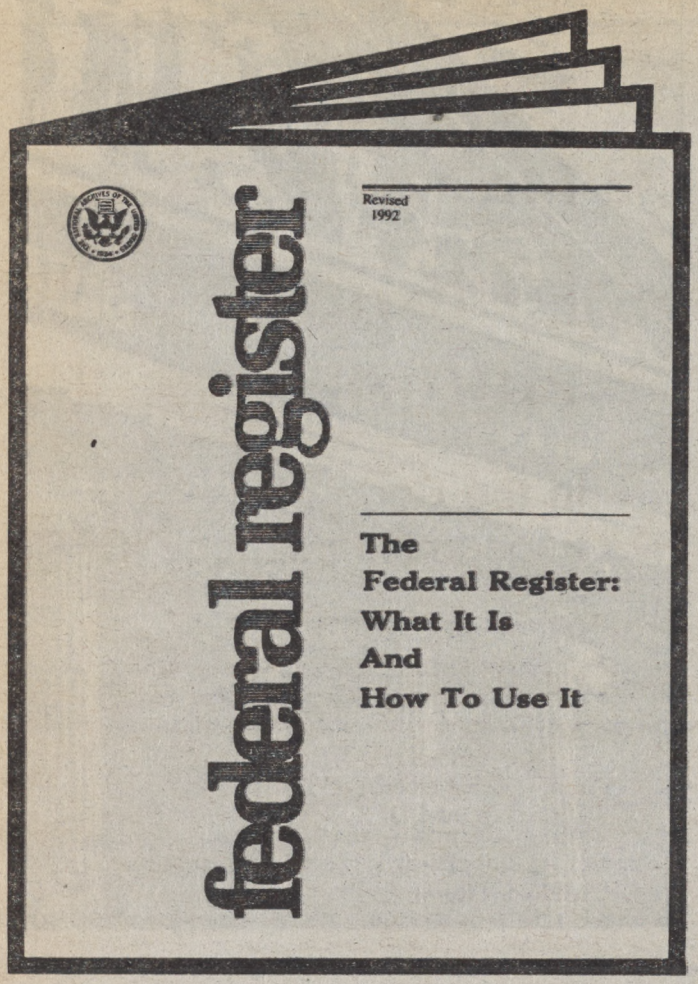

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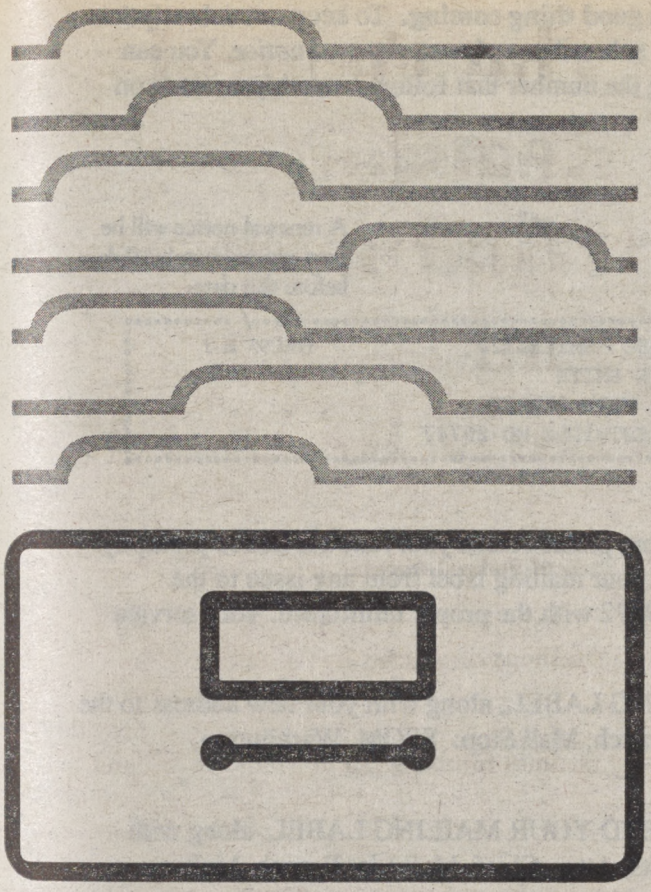

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