AUTHENTICATED
U.S. GOVERNMENT
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GPO

10–31–94
Vol. 59 No. 209

federal register

Monday
October 31, 1994

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

10–31–94
Vol. 59 No. 209
Pages 54375–54512

Federal Register

Monday
October 31, 1994

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV94–984–1IFR]

Walnuts Grown in California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 984 for the 1994–95 marketing year. Authorization of this budget enables the Walnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective August 1, 1994, through July 31, 1995. Comments received by November 30, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9981, or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209–487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California walnuts are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts handled during the 1994–95 marketing year, which began August 1, 1994, and ends July 31, 1995. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 5,000 producers of California walnuts under this marketing order, and approximately 65 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of California walnut producers and handlers may be classified as small entities.

The budget of expenses for the 1994–95 marketing year was prepared by the Walnut Marketing Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs of goods and services in their local areas and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California walnuts. Because that rate will be applied to the actual quantity of certified merchantable walnuts, it must be established at a rate that will provide sufficient income to pay the Board's expenses.

The Board met September 9, 1994, and unanimously recommended a 1994–95 budget of $2,170,772, $229,125 more than the previous year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Administrative salaries, $101,712 ($101,331), Board expenses, $35,000 ($32,000), office rent, $26,419 ($25,704), domestic market research and development, $953,000

($875,000), walnut production research, $718,302 ($438,488), crop survey, $45,000 ($43,000), and crop estimate, $60,000 ($52,000). Items which have decreased compared to the amount budgeted for 1993–94 (in parentheses) are: social security and hospital insurance taxes, $8,129 ($9,700), group life, retirement, and medical, $44,370 ($47,485), office salaries, $40,740 ($40,771), equipment maintenance and warranties, $10,000 ($12,000), furniture, fixtures, and automobiles, $5,000 ($20,000), and production research director, $40,000 ($91,068). The Board also eliminated funding for export market research and development and the reserve for contingencies for which $20,000 and $50,000 were recommended last year, respectively. All other items are budgeted at last year's amounts.

The Board also unanimously recommended an assessment rate of $0.0111 per kernelweight pound, $0.0021 more than the previous year. This rate, when applied to anticipated shipments of 198,000,000 kernelweight pounds of merchantable walnuts, will yield $2,197,800 in assessment income, which will be adequate to cover budgeted expenses. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the marketing year began on August 1, 1994, and the marketing order requires that the rate of assessment for the marketing year apply to all assessable walnuts handled during the marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 984.345 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 984.345 Expenses and assessment rate.

Expenses of $2,170,772 by the Walnut Marketing Board are authorized, and an assessment rate of $0.0111 per kernelweight pound of merchantable walnuts is established for the marketing year ending July 31, 1995. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

Dated: October 26, 1994.

Larry B. Lace,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–26929 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 985

[FV94–985–4IFR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantities and Allotment Percentages for "Class 1" (Scotch) and "Class 3" (Native) Spearmint Oil for the 1994–95 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule increases the quantities of "Class 1" (Scotch) and "Class 3" (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1994–95 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

DATES: Effective on October 31, 1994; comments received by November 30, 1994 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, Room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 720–8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 [7 CFR Part 985], regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah). This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the

marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantities of "Class 1" and "Class 3" spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1994–95 marketing year, which ends on May 31, 1995. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are eight spearmint oil handlers subject to regulation under the marketing order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold "Class 1" Scotch spearmint oil allotment base, and approximately 145 producers hold "Class 3" (Native) spearmint oil allotment base. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A minority of handlers and producers of Far West spearmint oil may be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations are not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order normally accounts for 75 percent of the annual U.S. production of spearmint oil.

This rule increases the quantities of the Scotch and Native classes of spearmint oil that handlers may purchase from, or handle for, producers during the 1994–95 marketing year, which ends on May 31, 1995. This rule increases the Scotch spearmint oil salable quantity and allotment percentage from 723,326 pounds to 811,516 pounds and 41 percent to 46 percent, respectively, and the Native spearmint oil salable quantity and allotment percentage from 1,092,577 pounds to 1,287,680 pounds and 56 percent to 66 percent, respectively, for the 1994–95 marketing year.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantities and allotment percentages for the Scotch and Native classes of spearmint oil for the 1994–95 marketing year were recommended by the Committee at its October 6, 1993, meeting. The Committee recommended salable quantities of 723,326 pounds and 897,388 pounds, and allotment percentages of 41 percent and 46 percent, respectively, for the Scotch and Native classes of spearmint oil. A proposed rule incorporating the Committee's October 6, 1993, recommendation was published in the December 21, 1993, issue of the **Federal Register** [58 FR 67378]. Comments on the proposed rule were solicited from interested persons until January 20, 1994. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the Committee's recommendation as the salable quantities and allotment percentages for the Scotch and Native classes of spearmint oil for the 1994–95 marketing year was published in the March 16, 1994, issue of the **Federal Register** [59 FR 12151].

At its June 14, 1994, teleconference meeting, the Committee unanimously recommended that the salable quantity and allotment percentage for Native spearmint oil for the 1994–95 marketing year be increased. The Committee recommended that the Native spearmint oil salable quantity be increased from 897,388 pounds to 1,092,577 pounds, and that the allotment percentage, based on a revised total allotment base of 1,951,032 pounds, be increased from 46 to 56 percent resulting in a 195,189 pound increase in the salable quantity.

An interim final rule incorporating the Committee's June 14, 1994, recommendation was published in the August 26, 1994, **Federal Register** (59 FR 44028). Comments on the interim rule were solicited from interested persons until September 26, 1994. No comments were received.

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the marketing order, at its October 5, 1994, meeting, the Committee recommended by a unanimous vote to increase the salable quantity and allotment percentage for Scotch spearmint oil. The committee also recommended by 10 to 1 vote an increase in the salable quantity and allotment percentage for Native spearmint oil. The person voting in opposition favored a smaller increase in the salable quantity and allotment percentage for Native spearmint oil.

Specifically, the committee recommended that the salable quantities and allotment percentages for Scotch and Native classes of spearmint oil for the 1994–95 marketing year be increased from 723,326 pounds to 811,516 pounds, and 1,092,577 pounds to 1,287,680 pounds, respectively. Based on a revised total allotment base of 1,763,795 pounds, the allotment percentage for Scotch spearmint oil is increased from 41 percent to 46 percent, resulting in an 88,190 pound increase in the salable quantity. Further, based on the same revised total allotment base published in the August 26, 1994, **Federal Register** (59 FR 44028) the allotment percentage for Native spearmint oil is increased from 56

percent to 66 percent, resulting in a 195,103 pound increase in the salable quantity.

SCOTCH SPEARMINT OIL RECOMMENDATIONS

	Oct. 6, 1993	Oct. 5, 1994
(1) Salable Quantity	723,326	811,516
(2) Total Allotment Base	1,764,209	1,763,795
(3) Allotment Percentage	41	46

NATIVE SPEARMINT OIL RECOMMENDATIONS

	Oct. 6, 1993	June 14, 1994	Oct. 5, 1994
(1) Salable Quantity	897,388	1,092,577	1,287,680
(2) Total Allotment Base	1,950,843	1,951,032	1,951,032
(3) Allotment Percentage	46	56	66

In making this recommendation the Committee considered all available information on supply and demand. As of October 5, 1994, the Committee reports that of the respective 1994–95 Scotch and Native spearmint oil salable quantities of 723,326 pounds and 1,092,577 pounds, and approximately 116,000 pounds and 87,000 pounds, respectively, remained available for handling. Handlers have indicated, however, that demand may approximate 200,000 pounds of Scotch spearmint oil, and 300,000 pounds of Native spearmint oil for the remainder of this marketing year. This level of demand was not anticipated by the Committee when it made its initial recommendation for the establishment of the Scotch and Native spearmint oil salable quantities and allotment percentages for the 1994–95 marketing year, nor was it foreseen when the Committee made its June 14, 1994, recommendation for an increase in the Native spearmint oil salable quantity and allotment percentage.

The recommended salable quantity of 811,516 pounds of Scotch spearmint oil (an increase of 88,190 pounds), combined with the actual June 1, 1994, carry-in of 145,809 pounds, results in a revised 1994–95 available supply of 957,325 pounds. Similarly, the recommended salable quantity of 1,287,680 pounds of Native spearmint oil (an increase of 195,103 pounds), combined with the revised June 1, 1994, carry-in of 19,139 pounds, results in a revised 1994–95 available supply of 1,306,819 pounds. The revised available supplies of the Scotch and Native classes of spearmint oil, respectively, are approximately 67,000 pounds and 227,000 pounds higher than the respective annual average of sales for the past five years. The Committee anticipates that foreseeable demand for both classes of oil will be adequately met with the recommended increase.

The Department, based on its analysis of available information, has determined that allotment percentages of 46 percent and 66 percent, respectively, should be established for the Scotch and Native classes of spearmint oil for the 1994–95 marketing year. These percentages will provide an increased salable quantity of 811,516 pounds of Scotch spearmint oil and an increased salable quantity of 1,287,680 pounds of Native spearmint oil.

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

After consideration of all relevant matter presented, including that contained in the prior proposed, final, and interim final rules in connection with the establishment of the salable quantities and allotment percentages for the Scotch and Native classes of spearmint oil for the 1994–95 marketing year, the Committee's recommendation and other available information, it is found that to revise § 985.213 to change the salable quantities and allotment percentages for the Scotch and Native classes of spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule increases the quantities of the Scotch and Native classes of spearmint oil that may be marketed immediately; (2) the committee recommended this rule a public meeting and all interested persons had an opportuntnity to provide input; and (3) This rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 985.213 is amended by revising paragraphs (a) and (b) to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 985.213 Salable quantities and allotment percentages—1994–95 marketing year.

* * * * *

(a) "Class 1" (Scotch) oil—a salable quantity of 811,516 pounds and allotment percentage of 46 percent.

(b) "Class 3" (Native) oil—a salable quantity of 1,287,680 pounds and an allotment percentage of 66 percent.

Dated: October 26, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–26924 Filed 10–26–94; 2:40 pm]

BILLING CODE 3410–02–P

7 CFR Part 989

[Docket No. FV94-989-5IFR]

Raisins Produced From Grapes Grown in California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 989 for the 1994–95 crop year. Authorization of this budget enables the Raisin Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: *Effective Dates:* August 1, 1994, through July 31, 1995.

Comments: Comments received by December 30, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209–487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California raisins are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins handled during the 1994–95 crop year, which began August 1, 1994, and ends July 31, 1995. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 5,000 producers of California raisins under this marketing order, and approximately 20 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of California raisin producers and a minority of handlers may be classified as small entities.

The budget of expenses for the 1994–95 crop year was prepared by the Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected acquisitions of California raisins. Because that rate will be applied to actual acquisitions, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee, with headquarters in Fresno, California, met August 15, 1994, and unanimously recommended a 1994–95 budget of $1,324,000, which is $744,940 more than the previous year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Office salaries, $123,000 ($90,000), fieldman salaries, $44,000 ($42,600), Payroll taxes, $30,000 ($27,500), employer retirement contribution, $20,000 ($18,200), general insurance, $8,000 ($6,000), group medical insurance, $40,000 ($37,000), rent, $43,000 ($17,900), telephone, $15,000 ($4,000), postage, $20,000 ($12,000), office supplies, $30,000 ($20,000), repairs and maintenance, $10,000 ($5,000), audit fees, $20,000 ($3,600), office travel, $14,000 ($12,000), Committee meeting expenses, $7,500 ($5,000), miscellaneous expense, $15,000 ($10,000), objective measurement survey, $14,750 ($14,000), and reserve for contingencies, $142,400 ($55,810). The Committee also recommended employee benefit expenses of $2,500 and export program funding of $50,000 for travel and $350,000 for foreign program administration, for which no funding was recommended last year.

The Committee also provided for $1,652,750 for certain expenses likely to be incurred in connection with the 1994–95 raisin reserve pools for Natural (sun-dried) Seedless and Zante Currant raisins. Pool expenses are deducted from proceeds obtained from the sale of reserve raisins. These proposed expenses are $766,150 more than the $886,600 for 1993–94 reserve pool expenses.

The larger administrative and reserve pool expenses result from the Committee's takeover of certain industry export marketing activities and the fact that the Natural (sun-dried) Seedless raisin crop is expected to be significantly larger than last year. This large crop, and the pooling of Zante Currant raisins for the first time in many years, will result in a larger quantity to be pooled and increased costs. Reserve pool expenditures are reviewed annually by the Department.

A California State raisin marketing order was terminated earlier this year. Its administrative agency, the California Raisin Advisory Board (CALRAB), formerly conducted marketing promotion and paid advertising activities here and abroad for the California raisin industry.

The Committee is taking over the funding and administration of the Market Promotion Program (MPP). The MPP, administered by the Department's Foreign Agricultural Service (FAS), encourages the development, maintenance, and expansion of export markets for agricultural commodities like raisins.

Recently, the FAS redirected MPP funds allocated to CALRAB for foreign promotion and advertising to the Committee which desires to use the funds to continue the industry's strong overseas promotion and advertising activities. To receive the full allocation ($4,479,549), the Committee must be able to show that it plans to spend, from industry sources, an amount equal to 50 percent of that allotment ($2,239,975). This spending can be for administration or promotion. The Committee recommended that the increased spending necessary to meet the required MPP matching figure be funded through increased handler assessments, reserve pool funds, and merchandising incentive program funds.

Under the marketing order's volume regulation provisions, marketing percentages (free and reserve) for a varietal type can be implemented to stabilize supplies. The free percentage prescribes the portion of the crop that can be shipped immediately to any market. The reserve percentage prescribes the portion of the crop to be held for later shipment. Reserve raisins are held in a reserve pool by handlers for the account of the Committee. Funds generated from the sales of reserve raisins, after deduction of reserve pool expenses, are distributed equally to equity holders in the pool (producers).

A Committee implemented merchandising incentive program promotes the consumption of California raisins in foreign markets. For various countries, cash rebates and advertising/promotion incentives are offered to qualifying importers. Funds used to pay the incentives are derived from reserve pool sales.

The Committee's MPP match of $2,239,775 will be made up of $1,249,775 in Committee domestic and overseas administration costs and $990,000 in industry market promotion funds. Domestic administration costs include $283,560 in employee salaries and benefits and $252,215 for MPP overhead costs. The overhead costs include expenditures for Committee staff to travel overseas ($100,000), Committee delegation trips ($50,000), rent ($28,500), insurance ($1,600), telephone ($7,500), postage ($6,000), office supplies, ($2,500), repairs and maintenance ($2,000), audit fees ($15,000), local travel ($3,000), equipment ($5,000), and miscellaneous expenses ($31,715).

The overseas costs of $714,000 include funding for the Committee's overseas marketing representatives and their staffs for nine countries (United Kingdom, Germany, Japan, Singapore, Philippines, Thailand, Malaysia, China, and Hong Kong). The costs include salaries and benefits, travel, office rent, office supplies, utilities, and postage. The representatives will handle the administration and day-to-day details of the marketing activities conducted in these countries.

The domestic and overseas administrative and overhead costs for the MPP will be paid with handler administrative assessments and reserve pool proceeds. Most of the major expense items for the MPP (employees salaries and benefits, domestic and overseas travel, and office rent) will be shared equally between administrative and reserve pool funds.

A total of $1,442,325 is presently available for the Committee's merchandising incentive program. Of that amount, a total of $990,000 will qualify for the MPP match. The Committee plans to use these funds for authorized promotion activities in Japan.

The Committee unanimously recommended an assessment rate of $4.00 per ton, which is $2.20 more than last year. This rate, when applied to anticipated acquisitions of 331,000 tons, will yield $1,324,000 in assessment income, which will be adequate to cover anticipated administrative expenses. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected.

While this action will impose some additional costs on handlers and producers, the costs on handlers are in the form of uniform assessments, and those on producers will be shared equally by all equity holders in the 1994–95 reserve pool for Natural (sun-dried) Seedless raisins. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because:

(1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis;

(2) the crop year began on August 1, 1994, and the marketing order requires that the rate of assessment for the crop year apply to all assessable raisins handled during the crop year;

(3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and it is similar to other budget actions issued in past years; and

(4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 989.345 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 989.345 Expenses and assessment rate.

Expenses of $1,324,000 by the Raisin Administrative Committee are authorized, and an assessment rate of $4.00 per ton of assessable California raisins is established for the crop year ending July 31, 1995. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: October 25, 1994.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 94–26908 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–02–P

Rural Electrification Administration

7 CFR Part 1737

Pre-Loan Procedures Common to Guaranteed and Insured Telephone Loans; Correcting Amendment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; correcting amendment.

SUMMARY: The Rural Electrification Administration (REA) published a final rule correction in the **Federal Register** on Wednesday, August 28, 1991 (56 FR 42524) to correct a typographical error in a final rule on pre-loan procedures common to guaranteed and insured telephone loans which was published in the **Federal Register** on June 10, 1991 (56 FR 26590). Due to an erroneous regulation cite within the August 28, 1991 correction, REA is publishing a correcting amendment.

EFFECTIVE DATE: June 10, 1991.

FOR FURTHER INFORMATION CONTACT: Daphne L. Brown, Program Support Staff, Rural Electrification Administration, South Building, room 2242, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720–0736.

SUPPLEMENTARY INFORMATION: REA published a final rule which was published in the **Federal Register** on Monday, June 10, 1991 (56 FR 26590) to revise Agency pre-loan procedures for guaranteed and insured telephone loans. Due to a typographical error in the final rule, REA published a correction on Wednesday, August 28, 1991 (56 FR 42524). The amendatory instruction in the August 28, 1991 correction incorrectly identified the amended section as "§ 1741.41" instead of "§ 1737.41". This section will be correctly designated as § 1737.41 by this correcting amendment.

List of Subjects in 7 CFR Part 1737

Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

Accordingly, 7 CFR part 1737 is corrected by making the following correcting amendments:

PART 1737—[AMENDED]

1. The authority citation for part 1737 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*

§ 1737.41 [Amended]

2. Section 1737.41(b)(1) is revised to read as follows:

§ 1737.41 Procedure for obtaining approval.

* * * * *

(b) * * *

(1) All of the information required under § 1737.21; or

* * * * *

Dated: October 24, 1994.

Wally Beyer,

Administrator.

[FR Doc. 94–26909 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

[Regulations G, T, U and X]

Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to and deletions from the previous OTC List and Foreign List.

EFFECTIVE DATE: November 14, 1994.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452–3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to and deletions from the OTC List, which was last published on July 25, 1994 (59 FR 37651), and became effective August 8, 1994. A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated for trading in the national market system (NMS security) under a rule approved by the Securities and Exchange Commission (SEC). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the SEC and at the National Association of Securities Dealers, Inc. and will be incorporated into the Board's next quarterly publication of the OTC List.

Also listed below are additions to and deletions from the Board's Foreign List, which was last published on July 25, 1994 (59 FR 37651), and became effective August 8, 1994. The Foreign List includes those foreign securities that meet the criteria in section 220.17 of Regulation T and are eligible for margin treatment at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6(a) and (b),

220.17(a), (b), (c) and (d), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2(u) and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List and the Foreign List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Automated Telephone Management Systems, Inc.
Series A, $1.00 par cumulative convertible preferred
Body Drama, Inc.
No par common
CAPX Corporation
Class A, warrants (expire 07–30–95)
CNL Financial Corporation
$1.00 par common
Codenoll Technology Corp.
$.01 par common
Commerce Bancorp, Inc. (New Jersey)
Series B, cumulative convertible preferred
Communication Intelligence Corp.
$.01 par common
Cybernetics Products, Inc.
$.01 par common
Destron Fearing Corporation
No par common
Falcon Oil & Gas Company, Inc.
$.01 par common
Franklin Bank, National Association (Michigan)
Series A, no par convertible preferred
Warrants (expire 09–15–94)
Golden Knight Resources, Inc.
No par common
Home Theater Products Inc.
Warrants (expire 09–30–94)
Image Business Systems Corp.
$.01 par common
Independence Bancorp, Inc. (New Jersey)
$1.667 par common
Integral Systems, Inc.
$.01 par common
International Airline Support Group, Inc.
$.001 par common
International Gaming Management, Inc.
$.001 par common
International Nesmont Industrial Corp.
No par common
IRG Technologies Inc.
$.01 par common
Laser Pacific Media Corporation
$.0001 par common
Licon International, Inc.
$.001 par common
Machine Technology, Inc.
No par common
Marquest Medical Products Inc.
No par common
Maxim Group, Inc., The
Warrants (expire 09–30–98)
Mechanical Technology, Inc.
$1.00 par common
Media Vision Technology, Inc.
$.001 par common
Megacards Inc.
$.01 par common
Megafoods Stores Inc.
$.001 par common
Micro Component Technology Inc.
$.01 par common
Microlog Corporation
$.01 par common
Microprobe Corporation
$.01 par common
Warrants (expire 09–28–98)
NALCAP Holdings Inc.
No par common
Nam Tai Electronics, Inc.
Redeemable common share purchase warrants
NEORX Corporation
$.02 par convertible exchangeable preferred
Odd's-N-End's, Inc.
$.01 par common
O S F, Inc.
No par common
Pace American Group
$.10 par common
Petrominerals Corporation
$.10 par common
Republic Bank (California)
No par common
Restor Industries, Inc.
$.01 par common
Warrants (expire 08–12–94)
Sports Heros, Inc.
$.001 par common
Warrants (expire 11–20–95)

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Aldus Corporation
$.01 par common
American Residential Holdings Corporation
$.04 par common
ASK Group, Inc., The
No par common
Cardinal Health Inc.
No par common
Central Pennsylvania Financial
$1.00 par common
Cohasset Savings Bank
$.10 par common
Community Health Systems, Inc.
$.01 par common
Consolidated Papers, Inc.
$1.00 par common
Cresmont Financial Corporation
$1.00 par common
Cumberland Federal Bancorporation, Inc. (Kentucky)
$1.00 par common
Diasonics Ultrasound Inc.
$.01 par common
First Inter-Bancorp Inc. (New York)
$1.00 par common
Frankford Corporation, The
$1.00 par common
Gates/FA Distributing, Inc.
$.01 par common
Glendale Bancorporation (New Jersey)
$2.50 par common
Grasso Corporation
$.01 par common
H & H Oil Tool Co., Inc.
$.01 par common
Hallmark Healthcare Corporation
Class A, $.05 par common
International Container Systems, Inc.
$.01 par common
Kenfil Inc.
$.01 par common
Kinross Gold Corporation
No par common
L.S.B. Bancshares, Inc. of South Carolina
$2.50 par common
Liberty Media Corporation
Class A, $1.00 par common
Class B, $1.00 par common
Class E, $.01 par preferred
Liberty National Bancorp, Inc.
No par common
Lincoln Foodservice Products, Inc.
No par common
Loan America Financial Corp.
Class B, $.10 par common
McCaw Cellular Communications, Inc.
Class A, $.01 par common
Medquist, Inc.
No par common
Mid Atlantic Medical Services Inc.
$.01 par common
Momentum Corporation
$1.00 par common
Mr. Coffee, Inc.
$.01 par common
Nature Food Centers Inc.
$.001 par common
Newtrogena Corporation

$.001 par common
Newbridge Networks Corporation
No par common
Optical Radiation Corporation
$.50 par common
PDA Engineering
No par common
Pioneer Financial Corporation
$1.00 par common
Reliable Financial Corporation
$.01 par common
Sage Technologies Inc.
$.01 par common
SBC Technologies, Inc.
$.10 par common
Scripps Howard Broadcasting Co.
$.25 par common
Serving Software, Inc.
$.01 par common
Signal Technology Corporation
$.01 par common
Sphinx Pharmaceuticals Corp.
$.01 par common
Sports & Recreation, Inc.
$.01 par common
Sterling Bancshares Corporation
$.10 par common
Suburban Bancorp, Inc.
Class A, $1.00 par common
Sunward Technologies, Inc.
$.01 par common
Supermac Technology, Inc.
$.001 par common
TSI Corporation
$.02 par common
Warrants (expire 01–31–96)
Turf Paradise, Inc.
No par common
TVX Gold, Inc.
No par common
West Newton Savings Bank
$.10 par common
Wheatley TXT Corporation
$.01 par common
XYPLER Inc.
$.01 per common

Additions to the List of Marginable OTC Stocks

Aasche Transportation Services, Inc.
$.0001 par common
Adflex Solutions, Inc.
$.01 par common
Adtran, Inc.
$.01 par common
Affiliated Computer Services, Inc.
Class A, $.01 par common
AK Steel Holding Corporation
7% convertible preferred
Amerilink Corporation
No par common
Aquagenix Inc.
$.01 par common
Warrants (expire 09–13–99)
Aran Energy Plc
American Depositary Receipts
Ariad Pharmaceuticals, Inc.
Warrants (expire 05–20–99)
Astrum International Corporation
$.01 par common
Baby Superstore, Inc.
No par common
Bally's Grand, Inc.
$.01 par common
Warrants (expire 08–19–2000)
Bedford Bancshares, Inc. (Virginia)
$.01 par common
Bell Cablemedia Plc
American Depositary Receipts
Benson Financial Corporation
$.01 par common
Best Products Co., Inc.
$1.00 par common
Bio-Dental Technologies Corporation
$.01 par common
Biomune Systems, Inc.
$.0001 par common
Business Objects S.A.
American Depositary Shares
Caledonia Mining Corporation
No par common
Carnegie Bancorp (New Jersey)
No par common
Warrants (expire 08–09–97)
Carolina First Corporation
Series 1994, no par noncumulative convertible preferred
Cascade Communications Corporation
$.001 par common
Cedar Group, Inc.
$.001 par common
Central European Media Enterprises Ltd.
Class A, $.01 par common
Central Tractor Farm & Country Inc.
$.01 par common
Cerprobe Corporation
$.05 par common
Cherry Corporation, The
Class A, $1.00 par common
Cima Labs Inc.
$.01 par common
Citation Corporation
$.01 par common
Clearnet Communications Inc.
Class A, non-voting, no par common
Cohu, Inc.
$1.00 par common
Comcast UK Cable Partners Ltd.
$.01 par common
Comet Software International
Ordinary shares (NIS .01)
Concord Health Group, Inc.
$.001 par common
Warrants (expire 04–19–2000)
Continental Choice Care, Inc.
No par common
Units (expire 04–29–99)
Warrants (expire 07–20–99)
Corporate Express, Inc.
$.0002 par common
Cyclo3pss Medical Systems, Inc.
$.001 par common
Darling International Inc.
$.01 par common
Dorsey Trailers, Inc.
$.01 par common
Duramed Pharmaceuticals, Inc.
$.01 par common
Dwyer Group, Inc., The
$.10 par common
E & B Marine, Inc.
$.001 par common
Eagle Finance Corporation
$.01 par common
Eagle Financial Corporation
$.01 par common
Enterprise Federal Bancorp Inc. (Ohio)
$.01 par common
Envirodyne Industries, Inc.
$.01 par common
Erly Industries, Inc.
$1.00 par common
Ernst Home Center, Inc.
$.01 par common
Facelifters Home Systems, Inc.
$.01 par common
Family Bargain Corporation
Series A, $.01 par preferred
FCNB Corporation
$1.00 par common
Featherlite Manufacturing Inc.
No par common
Felcor Suite Hotels, Inc.
$.01 par common
FFVA Financial Corporation
$.10 par common
Fiberstars, Inc.
$.0001 par common
Financial Bancorp Inc. (New York)
$.01 par common
First Federal Bancshares of Eau Claire Inc.
$.01 par common
First Federal Savings Bank of Fort Dodge
$1.00 par common
First Merchants Acceptance Corporation
$.01 par common
First Victoria National Bank (Texas)
$5.00 par common
Flemington National Bank & Trust Company (New Jersey)
$2.50 par common
Florida Gaming Corporation
$.10 par common
Forum Group, Inc.
No par common
FSF Financial Corporation
$.10 par common
Full House Resorts, Inc.
$.0001 par common
Giant Cement Holding Inc.
$.01 par common
Global Market Information, Inc.
$.01 par common
Warrants (expire 08–10–97)
Grand Toys International, Inc.
$.001 par common
Greenstone Industries, Inc.
$.001 par common
Warrants (expire 07–20–99)
Happiness Express, Inc.
$.001 par common
Harbor Federal Bancorp, Inc. (Maryland)
$.01 par common
Harris Computer Systems Corporation
$1.00 par common
Heftel Broadcasting Corporation
Class A, $.001 par common
Home Federal Savings Bank (Washington, DC)
$.01 par common
Hubco, Inc.
Series A, $24.00 stated value preferred stock
IDM Environmental Corporation
$.001 par common
Class A, warrants (expire 04–21–99)
Incontrol, Inc.
$.01 par common
Innkeepers USA Trust
$.01 par common
Inphynet Medical Management Inc.
$.01 par common
IPC Information Systems, Inc.
$.01 par common
Jannock Limited
Common shares
Jefferson Bancorp, Inc. (Louisiana)
$.01 par common
Life Bancorp Inc.

$.01 par common
Loronix Information Systems, Inc.
$.001 par common
Macheezmo Mouse Restaurants, Inc.
No par common
Mahaska Investment Company
$5.00 par common
Marker International
$.01 par common
Matthews International Corporation
$1.00 par common
Mattson Technology Inc.
No par common
Maverick Tube Corporation
$.01 par common
Media Arts Group, Inc.
$.01 par common
Meridian Sports Inc.
$.01 par common
Metrobancorp (Indiana)
No par common
Metrologic Instruments, Inc.
$.01 par common
Micro Linear Corporation
$.001 par common
Miles Homes, Inc.
Warrants (expire 04–01–97)
Miller Industries, Inc.
$.01 par common
Milton Federal Financial Corporation
No par common
Ministor Peripherals International Ltd.
$.012454 par common
Redeemable warrants (expire 07–29–99)
Mississippi Chemical Corporation
$.01 par common
MLF Bancorp, Inc. (Pennsylvania)
$.01 par common
Movie Gallery, Inc.
$.001 par common
National Diagnostics Inc.
No par common
Warrants (expire 09–19–97)
Network Long Distance, Inc.
$.0001 par common
Newvision Technology, Inc.
$.01 par common
Warrants (expire 03–30–95)
Redeemable Warrants (expire 08–25–99)
Noble Drilling Corporation
$1.50 convertible preferred
Norrell Corporation
No par common
Norweb Plc
American Depositary Receipts
Numerex Corporation
$.0001 par common
Ottawa Financial Corporation
$.01 par common
P.T. Tri Polyta Indonesia
American Depositary Receipts
Pacific Basin Bulk Shipping Ltd.
Units (expire 09–30–99)
Pennfed Financial Services, Inc.
$.01 par common
PHC, Inc.
$.001 par common
Piercing Pagoda Inc.
$.01 par common
PMT Services, Inc.
$.01 par common
PRI Automation Inc.
$.01 par common
Prime Residential, Inc.
$.01 par common
Professional Sports Care Management Inc.
$.01 par common
Protection One, Inc.
$.01 par common
Regent Bancshares Corp. (Pennsylvania)
$.10 par common
Series A, $.10 par convertible preferred
Rent-Way, Inc.
No par common
RF Monolithics, Inc.
$.001 par common
Rock Bottom Restaurants, Inc.
$.01 par common
SBS Engineering Inc.
No par common
Sirena Apparel Group Inc., The
$.01 par common
South Pointe Enterprises, Inc.
$.0001 par common
Spectrian Corporation
No par common
Sportmart, Inc.
Class A, $.01 par common
Standard Financial, Inc.
$.01 par common
Strategic Distribution, Inc.
$.10 par common
Strouds Inc.
$.0001 par common
Suburbfed Financial Corporation
$.01 par common
Sugen Inc.
$.01 par common
Systemsoft Corporation
$.01 par common
Target Technologies Inc.
$.01 par common
Team Rental Group, Inc.
Class A, $.01 par common
Tessco Technologies Inc.
$.01 par common
TJ Systems Corporation
$.01 par common
Tower Automotive, Inc.
$.01 par common
Truck Components, Inc.
$.01 par common
U S Xpress Enterprises Inc.
Class A, $.01 par common
Village Bancorp, Inc. (Connecticut)
$3.33 par common
Wackenhut Corrections Corporations
$.01 par common
Wave Systems Corporation
Class A, $.01 par common
Wave Technologies International Inc.
$.50 par common
Welcome Home, Inc.
$.01 par common
Westbank Corporation
$2.00 par common
Western Ohio Financial Corporation
$.01 par common
Youth Services International, Inc.
$.01 par common

Additions to the list of Foreign Margin Stocks

Bank of Montreal
No par common
Bank of Nova Scotia, The
No par common
Canadian Imperial Bank of Commerce
No par common
National Bank of Canada
No par common
Royal Bank of Canada
No par common
Toronto Dominion Bank, The
No par common

Deletions to the List of Foreign Margin Stocks

Canadian Natural Resources Ltd.
No par common
OJI Paper Company Ltd.
¥50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), October 24, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–26733 Filed 10–28–94; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27745; Special Federal Aviation Regulation No. 68]

RIN 2120–AF39

Removal of the Prohibition Against Certain Flights Within the Territory and Airspace of Yemen

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) No. 68, which prohibits flight operations within the territory and airspace of Yemen by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is taken in response to the end of the civil war in Yemen, which has reduced the threat of hostile actions against persons and aircraft engaged in flight operations in Yemen.

EFFECTIVE DATE: October 21, 1994.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267–3515.

SUPPLEMENTARY INFORMATION: On May 18, 1994, the FAA published a final rule (59 FR 25284) prohibiting certain aircraft operations within the territory and airspace of Yemen. In the exercise of its statutory responsibility for the safety of U.S.-registered aircraft and U.S.

operators, the FAA determined that the civil war in Yemen justified the imposition of certain measures to ensure the safety of U.S.-registered aircraft and operators conducting flight operations in the vicinity of Yemen's territory and airspace. SFAR 68 prohibits flight operations within the territory and airspace of Yemen by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier.

The civil war in Yemen ended on July 7, 1994. With the end of the war has come a corresponding reduction in the threat to civil aircraft operating in the territory and airspace of Yemen. There now appears to be no continuing specific threat to civil aviation arising out of, or related to, the civil war and its end.

The FAA has been advised by Yemen's civil aviation authorities that its international airports are open and operating normally. The FAA, however, has no specific information on the facilities or level of services available at individual airports in Yemen. Yemen reports that it expects to issue a new Aeronautical Information Publication by the end of 1994. Information concerning the civil aviation system in Yemen is available from the Director of the Aeronautical Information Service, Sana'a International Airport, Post Office Box 1438, Sana'a Republic of Yemen. Telephone: 011–967–1–250820. Telex: 2434. Commercial Telegraph: CIVILAIR SANA'A.

On the basis of the foregoing information, I have determined that the immediate removal of SFAR 68 from 14 CFR part 91 is appropriate. The Department of State has been advised of, and has no objection to, the action taken herein.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Yemen.

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR part 91 by removing SFAR 68 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*, E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Special Federal Aviation Regulation No. 68 is removed.

Issued in Washington, DC, on October 21, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–26898 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1215

RIN 2700–AA29

Tracking and Data Relay Satellite System (TDRSS)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1215, "Tracking and Data Relay Satellite System (TDRSS)," by revising Appendix A to reflect the estimated service rates in 1995 dollars for TDRSS standard services, based on NASA escalation estimates. 14 CFR Part 1215 sets forth the policy governing the Tracking and Data Relay Satellite System (TDRSS) services provided to non-U.S. Government users and the reimbursement for rendering such services. The TDRSS represents a major investment by the U.S. Government with the primary goal of providing improved communications and tracking services to spacecraft in low earth orbit or to mobile terrestrial users such as aircraft or balloons.

EFFECTIVE DATE: October 31, 1994.

ADDRESSES: Office of Space Communications, Code O, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Eugene Ferrick, 202–358–2030.

SUPPLEMENTARY INFORMATION: This regulation was first published in the **Federal Register** on March 9, 1983 (48 FR 9845). Each year since that time, 14 CFR Part 1215 has been amended by revising Appendix A to reflect the rate changes for the appropriate calendar years (CY). Since this revision of Appendix A to 14 CFR Part 1215 reflects the rate changes for CY 1995 and involves NASA management procedures and decisions, no public comment is required.

The National Aeronautics and Space Administration has determined that this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities, and it is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1215

Satellites, Tracking and Data Relay Satellite System, Communications equipment, Government contract.

PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

For reasons set out in the Preamble, 14 CFR Part 1215 is amended as follows:

1. The authority citation for 14 CFR Part 1215 continues to read as follows:

Authority: Sec. 203, Pub. L. 85–568, 72 Stat., 429, as amended; 42 U.S.C. 2473.

2. Appendix A is revised to read as follows:

Appendix A to Part 1215—Estimated Service Rates in 1995 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate)

TDRSS user service rates for services rendered in CY–95 based on current projections in 1995 dollars are as follows:

Single Access Service—Forward command, return telemetry, or tracking, or any combination of these, the base rate is $194.00 per minute for non-U.S. Government users.

Multiple Access Forward Service—Base rate is $42.00 per minute for non-U.S. Government users.

Multiple Access Return Service—Base rate is $13.00 per minute for non-U.S. Government users.

Dated: October 12, 1994.

Charles T. Force,

Associate Administrator for Space Communications.

[FR Doc. 94–26907 Filed 10–28–94; 8:45 am]

BILLING CODE 7510–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–37–1–5925a; FRL–5090–6]

Approval and Promulgation of Implementation Plans Alabama: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP)

submitted by the State of Alabama through the Alabama Department of Environmental Management (ADEM) for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), which will be fully implemented by November 15, 1994. This implementation plan was submitted by the State on November 13, 1992, to satisfy the federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective on December 30, 1994 unless notice is received by November 30, 1994 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

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

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

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

Alabama Department of Environmental Management, Office of General Counsel, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a PROGRAM, and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA and the EPA guidance document Guidelines for the Implementation of section 507 of the 1990 Clean Air Act Amendments. In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507(a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of Alabama has addressed these requirements and established a PROGRAM as described below.

1. Small Business Assistance Program (SBAP)

Alabama has established a mechanism to implement the following six requirements set forth in section 507 of title V of the CAA:

A. The establishment of adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further comply with the CAA;

B. The establishment of adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

C. The development of a compliance and technical assistance program for small business stationary sources which assist small businesses in determining applicable permit requirements under the CAA in a timely and efficient manner;

D. The development of adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA;

E. The development of adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors, or at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA; and

F. The development of procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The State of Alabama Department of Environmental Management has indicated the Chief of the Non-Industrial Section in the Engineering Branch of the Air Division will be designated the coordinator of the Technical and Environmental Assistance Group (TEAG). The coordinator will direct and coordinate the activities of a group of at least six individuals with experience in permitting, source sampling, dispersion modeling, and public information. ADEM will support the TEAG with additional personnel as warranted. The TEAG will establish a clearinghouse of relevant technical and regulatory literature to disseminate to the small business community. It will provide information concerning compliance methods and technologies for small business stationary sources to operators and owners through interaction and cooperation with the Alabama Development Office (ADO), the Alabama Department of Economic and Community Affairs (ADECA), Alabama Small Business Development Consortium, Safe-State, the Waste Reduction and Technology Transfer (WRATT) program, trade associations, and other appropriate groups.

The TEAG will provide information concerning pollution prevention and accidental release detection and prevention programs. This shall include providing information about alternative technologies, process changes, products, and methods of operation that reduce air pollution. The TEAG will support the activities of the Ombudsman and answer questions from that office, other state and local agencies, trade associations, and other appropriate groups concerning air permit requirements and applicability in a timely and efficient manner. Public notices will be posted in the State's four largest newspapers of proposed and/or final rules, regulations or standards issued under the CAA. Personnel from the TEAG will speak at forums and/or

meetings concerning applicable proposed or final rules, regulations or standards issued under the CAA. The TEAG will serve as the secretariat to the Ombudsman and the Compliance Advisory Panel in the development and dissemination of reports, advisory opinions and other information.

The TEAG will inform small businesses of the procedures for the Department to consider requests for a variance from a rule, work practice, standard or compliance date. The WRATT will be included in the Assistance Group where multi-media pollution prevention opportunity information is requested. Public service announcements, seminars and workshops will be developed and utilized. The TEAG will use EPA services such as the Control Technology Center (CTC) and the Emission Measurement Technical Information Center (EMTIC). Compliance Assistance to small businesses will be provided to aid them to identify applicable requirements and procedures to obtain permits in a timely fashion. The TEAG has developed and continues to work on responsive techniques, outreach techniques and information packets. This will cover topics such as pollution prevention, accidental release prevention and detection, source rights and obligations, and how to obtain approval for modification of work practices, compliance methods or schedules of compliance.

The Department will perform on-site audits at the request of small businesses to evaluate work practices, compliance monitoring procedures and recordkeeping procedures. Such audits may be performed by Department personnel or by the WRATT program at no cost to the small businesses.

2. Ombudsman

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. Alabama has appointed a Small Business Ombudsman and established the office of Alabama Small Business Ombudsman to represent the interests of small businesses as they come under the regulation of the CAA and the oversight of the Small Business Technical and Environmental Assistance Group. The Ombudsman reports directly to the Director of the Department of Environmental Management. The Alabama Ombusman operates a toll-free hotline to provide free confidential help to small businesses on specific source problems and grievances. The Ombudsman is authorized to communicate directly with the Governor's Office, the Director of ADEM, the Chief of the Air Division, other state agencies and other government officials. The Ombudsman may propose legislation or administrative action through ADEM or the Compliance Advisory Panel.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires the state to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the state legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. Alabama established a seven member CAP with a membership consistent with the aforementioned CAA requirements. The makeup of the CAP is prescribed as required by the CAA and administrative support will be provided by the Department to fulfill all the responsibilities under the CAA.

The duties of the CAP include: rendering advisory opinions regarding the effectiveness of the Small Business Technical and Environmental Assistance Group; reviewing information for small business stationary air pollution sources to assure such information is understandable by the layperson; and to make periodic reports to the Administrator of the Environmental Protection Agency in accordance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act.

4. Source Eligibility

Alabama has incorporated section 507(c)(1) and defined a Small Business Stationary Source as a source that:

(1) Operates in Alabama;
(2) Is owned or operated by a person who employs 100 or fewer individuals;
(3) Is a small business concern as defined in the Small Business Act;
(4) Is not a major stationary source as defined in Titles I and III of the CAA which means the potential to emit for the source is less than:
a. 100 tons per year (tpy) of any criteria air pollutant;
b. 10 tpy of any toxic pollutant; or
c. 25 tpy of all toxic pollutants;
(5) Does not emit 50 tpy or more of any regulated pollutant; and
(6) Emits less than 75 tpy of all regulated pollutants.

Alabama has established the following mechanisms as required by section 507: (1) A process for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA; (2) A process for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) A process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Department determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

Final Action

In this action, EPA is approving the PROGRAM SIP revision submitted by the State of Alabama through the Alabama Department of Environmental Management. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective on December 30, 1994. However, if notice is received by November 30, 1994 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael Shapiro,

Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of Section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *Environmental Protection Agency*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k).

List of Subjects in 40 CFR Part 52

Air Pollution Control, Incorporation by reference, Intergovernmental relations, Small business stationary source technical and environmental assistance program.

Dated: October 4, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Subpart B—Alabama

Authority: 42. U.S.C. 7401–7671q.

2. Section 52.50 is amended by adding paragraph (c) (62) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(62) The Alabama Department of Environmental Management has submitted revisions to chapter 11 of the Alabama Statute on November 13, 1992. These revision address the requirements of section 507 of Title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) Alabama statute 11.1, effective November 13, 1993.

(ii) Additional information—None.

* * * * *

[FR Doc. 94–26840 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–064–1–6408a; FRL–5092–5]

Approval and Promulgation of Implementation Plans in North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 15, 1991, and January 7, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions extend the New Source Review (NSR) regulations to new nonattainment areas for O_3 and carbon monoxide (CO).

DATES: This final rule is effective on December 30, 1994 unless notice is received by November 30, 1994 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

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

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

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

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4212.

SUPPLEMENTARY INFORMATION: On May 15, 1991, and January 7, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions addressed New Source Review (NSR), Prevention of Significant Deterioration (PSD) and Reasonably Available Control Technology (RACT). The RACT revisions will be addressed in a separate notice. Revision to rule 15 A NCAC 2D .0531, submitted May 15, 1991, is being approved in this notice. The remaining revisions submitted May 15, 1991, will be addressed in a separate notice. A brief description of each revision being addressed in this notice follows.

15A NCAC 2D .0531 Sources in Nonattainment Areas

North Carolina amended this rule to extend the NSR requirements to new nonattainment areas for O_3 and CO. The amendments require offsets to be obtained for both VOCs and nitrogen oxides (NO_X) in ozone nonattainment areas. The amendments also require that major new sources of the nonattainment pollutant locating in a nonattainment area to obtain offsets for the major new source and associated minor sources using a ratio of at least 1.15 to 1.00 for VOC and NO_X sources on ozone nonattainment areas and greater than

one to one for CO nonattainment areas. This rule is also amended to add new compounds to the list of compounds whose emissions are exempt under this rule. This rule meets the requirement of the Clean Air Act as amended in 1990 for new sources locating in nonattainment areas.

15A NCAC 2D .0532 Sources Contributing to an Ambient Violation

North Carolina amended this rule to exclude the nonattainment areas subject to NSR.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on December 30, 1994 unless, by November 30, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 30, 1994.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

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

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

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects in 40 CFR Part 52

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

Dated: October 5, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(72) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(72) The NSR regulations to the North Carolina State Implementation Plan which were submitted on January 7, 1994.

(i) Incorporation by reference.

(A) North Carolina regulations 15A NCAC 2D.0531, and 2D.0532 effective on December 1, 1993.

(ii) Other material.

(A) Letter of January 7, 1993, from the North Carolina Division of Environmental Management.

* * * * *

[FR Doc. 94–26844 Filed 10–28–94; 8:45 am]

BILLING CODE 6050–50–P

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40 CFR Part 52

[WA–23–1–6438a; FRL–5092–1]

Approval and Promulgation of State; Implementation Plan: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State of Washington's contingency measure plan as a revision to Washington's State Implementation Plan (SIP) for carbon monoxide (CO). EPA's action is based upon a revision request which was submitted by the state to satisfy the requirement of the Clean Air Act Amendments (CAAA) for Vancouver, Washington.

DATES: This final rule is effective on December 30, 1994 unless adverse or critical comments are received by November 30, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, Docket # WA23–1–6438, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue

(AT–082), Seattle, Washington 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, Washington, 98504–7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air & Radiation Branch (AT–082), EPA, Seattle, Washington 98101, (206) 553–6917.

SUPPLEMENTARY INFORMATION:

I. Background

States containing CO nonattainment areas with design values of 12.7 ppm or less were required to submit, among other things, contingency measures to satisfy the provisions under section 172(c)(9). These provisions require contingency measures to be implemented in the event that an area fails to reach attainment by the applicable attainment date, December 31, 1995. Contingency measures were due by November 15, 1993, as set by EPA under section 172(b) of the Act.

Contingency measures must be implemented within 12 months after the finding of failure to attain the CO National Ambient Air Quality Standards (NAAQS). Once triggered they must take effect without further action by the state or EPA, therefore, all contingency measures must be adopted and enforceable prior to submittal to EPA.

The CAAA do not specify how many contingency measures are needed or the magnitude of emission reductions they must provide if an area fails to attain the CO NAAQS. The EPA believes that one appropriate choice of contingency measures would be to provide for the implementation of sufficient vehicle miles traveled (VMT) reductions or emissions reductions to counteract the effect of one year's growth in VMT while the state revises its SIP to incorporate all of the new requirements of a serious CO area.

II. This Action

In this action, EPA is approving Washington's SIP revision submitted to EPA on November 15, 1993 for Vancouver, Washington because it meets the applicable requirements of the Act.

The state of Washington held public hearings in Vancouver, Washington on November 9, 1993 to entertain public comment on the CO contingency measure SIP revision. Following the public hearing the plan was adopted by the Department of Ecology on November 15, 1993 and signed by the Governor's designee on November 15, 1993, becoming effective on December 15, 1993. Ecology submitted the plan to EPA on November 15, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria delineated at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete on April 13, 1994 and a letter dated May 6, 1994 was forwarded to the Director indicating the completeness of the submittal.

A. Analysis of State Submission

Washington's CO contingency plan for Vancouver calls for the early implementation of improvements to Washington State's basic inspection and maintenance (I/M) program. These improvements are part of Vancouver's inspection and maintenance program that began on June 1, 1993. While these technical enhancements are already being implemented, their use as a contingency measure is consistent with EPA guidance. The early implementation of the "improved" vehicle inspection and maintenance program helps to ensure that the area will attain the NAAQS. Ecology anticipates that improvements to the basic I/M program in Vancouver will reduce 1996 motor vehicle carbon monoxide emissions by an additional four percent when compared to the EPA program.

Washington's improved I/M program consists of the following elements: a loaded steady state test for light duty gasoline vehicles, two-speed test for heavy duty gas vehicles, and opacity check for diesels; biennial testing of all gasoline vehicles; tampering checks for 1981 and newer vehicles; a stringency rate of 28% for pre-1981 vehicles, a waiver rate of 15% of failed vehicles, a compliance rate of 90%. EPA's basic I/M program consists of the following elements: idle testing of 1968 and newer vehicles; annual testing of light duty gasoline vehicles; no tampering checks; a stringency rate of 20% for pre-1981 vehicles; no waiver rate; and a compliance rate of 100%.

III. Administrative Review

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

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on December 30, 1994 unless, by November 30, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 30, 1994.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as

revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: October 5, 1994.

Chuck Clarke,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (49) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(49) On November 10, 1993, the State of Washington Department of Ecology submitted a CO State Implementation Plan for Clark County, Washington.

(i) Incorporation by reference.

(A) November 10, 1993 letter from the State of Washington Department of Ecology to EPA Region 10 submitting the CO State Implementation Plan for Clark County, Washington.

(B) Supplement to a Plan for Attaining and Maintaining National Ambient Air Quality Standards for Carbon Monoxide in the Vancouver Air Quality Maintenance Area, Replacement Pages, as adopted by the Washington State Department of Ecology on November 15, 1993.

[FR Doc. 94–26842 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[IN15–4–6647; FRL–5096–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On July 8, 1994, the United States Environmental Protection Agency (USEPA) published direct final rulemaking approving the redesignation of St. Joseph, Elkhart, Marion, and Vanderburgh Counties, Indiana to attainment of the ozone National Ambient Air Quality Standards (NAAQS) and their accompanying maintenance plans as State Implementation Plan (SIP) revisions. On the same day (July 8, 1994), a proposed rule was also published which established a 30-day public comment period noting that, if adverse comments were received regarding the direct final rule, the USEPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period and the USEPA published a withdrawal of the direct final rule on August 26, 1994. This final rule summarizes these comments and USEPA's responses and finalizes the approval of the redesignation of St. Joseph, Elkhart and Marion Counties. However, due to preliminary, non-quality industrial assured ozone data recently received from the State of Indiana for Warrick County, (which is adjacent to Vanderburgh County) indicating that a violation of the ozone standard may have occurred in 1994, USEPA is not finalizing the approval of the redesignation of Vanderburgh County at this time. The USEPA will address the Vanderburgh County redesignation request when an evaluation of these monitoring data are available.

EFFECTIVE DATE: This final rule will be effective November 30, 1994.

ADDRESSES: Copies of the SIP revision, public comments and USEPA's response are available for inspection at the following address: (It is recommended that you telephone Edward Doty at (312) 886–6057 before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section (AR–18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6057.

SUPPLEMENTARY INFORMATION:

I. Background Information

The redesignation requests and maintenance plans discussed in this rule were submitted by the Indiana Department of Environmental Management (IDEM) for the following ozone nonattainment areas: South Bend/Elkhart (St. Joseph and Elkhart Counties, submitted on September 22, 1993); and Indianapolis (Marion County, submitted on November 12, 1993). On July 8, 1994, (59 FR 35044) USEPA published a direct final rule approving the redesignation requests and maintenance plans as revisions to the Indiana ozone SIP. On the same day, USEPA published a proposed rule noting that if adverse comments were received regarding the direct final rule, the USEPA would withdraw the direct final rule and publish another final rule addressing the public comments (For further information refer to 59 FR 35044 and 59 FR 36731). Adverse comments were received regarding the direct final rule and USEPA, therefore, withdrew the direct final rule on August 26, 1994, (59 FR 44040). The final rule contained in today's **Federal Register** addresses the comments which were received during the public comment period and announces USEPA's final action regarding the redesignation of St. Joseph, Elkhart and Marion Counties. The State of Indiana has provided the USEPA with preliminary, non-quality assured ozone data for Warrick County (which is adjacent to Vanderburgh County) indicating that a violation of the ozone standard may have occurred in 1994. During four days in 1994, June 18 through June 21, ozone standard exceedances may have been recorded at an Alcoa operated facility site (AIRS site 18–173–0002). The USEPA will defer final rulemaking on the redesignation of Vanderburgh County until an evaluation of these monitoring data are available for this period. Based on evaluation of these data, the redesignation of

Vanderburgh County to attainment will have to be reconsidered. USEPA will summarize and respond to the adverse comments received regarding the Vanderburgh County redesignation in a subsequent final rulemaking action.

II. Public Comments and USEPA Responses

The following discussion summarizes and responds to the comments received regarding the redesignation of St. Joseph, Elkhart, and Marion Counties.

Comment

A commenter notes that, in reviewing Indiana's ozone redesignation request, the USEPA should consider the transport of ozone and ozone precursors into nonattainment areas currently part of the Lake Michigan Ozone Control Program (LMOP) (also referred to as the Lake Michigan Ozone Study [LMOS] area). Given the ongoing concerns about the control of transported ozone and ozone precursors as part of the attainment strategies being considered for the LMOP area, the commenter believes the Indiana ozone nonattainment areas (as well as those of Illinois, Michigan, and Wisconsin) should not be redesignated to attainment until the Lake Michigan Air Directors Consortium (LADCO) has conducted and completed an analysis of the ozone impacts of controlling transported ozone precursors.

USEPA Response

Although the 1991 field study conducted for LMOS produced high ozone concentrations aloft near the upwind edge of the LMOS modeling domain, implying transport of relatively high ozone concentrations into the LMOS domain, the 1991 field study did not establish the source(s) of the transported ozone. No studies have been conducted demonstrating that the Indiana nonattainment areas are the source areas responsible for the transported ozone. As there is currently no conclusive evidence that these Indiana areas are responsible for the transported ozone, USEPA does not believe that it would be appropriate to continue the nonattainment classification of these areas. USEPA further notes that these areas remain subject to obligations under sections 110(a)(2)(A) and 110(a)(2)(D) of the Clean Air Act (Act) to deal with ozone transport even after redesignation to attainment.

It should be noted that the LADCO States are conducting modeling analyses which will allow an assessment of the ozone impacts of controlling emissions in attainment areas as well as in ozone nonattainment areas. In addition, the USEPA is considering analyzing the impacts of some national controls covering both attainment areas and nonattainment areas through the use of the Regional Oxidant Model, which can cover a larger domain than the Urban Airshed Model used in LMOS and LMOP. The results of these modeling analyses may lead to new emission control requirements for attainment areas.

Comment

A commenter notes that the State of Indiana has not fully predicted the impact of future transportation projects and their effects on Vehicle Miles Travelled (VMT) and mobile source emissions growth. Specifically, the State of Indiana is planning to build a new four-lane highway between Marion and Vanderburgh Counties. In addition, the City of Indianapolis has recently proposed changes to its public transportation system, including the elimination of routes. Conformity analyses have not been performed for either of these proposals. The commenter argues that the September 4, 1992 redesignation guidance from USEPA's Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, requires that the State prove that its State Implementation Plan (SIP) provisions are consistent with the Act's section 176(c)(4) conformity requirements.

USEPA Response

The USEPA conformity rule (58 FR 62218) requires the States to conduct conformity analyses for both nonattainment areas and attainment areas subject to maintenance plans. The State is currently drafting its conformity rule to comply with USEPA's conformity rule. Therefore, any major federally funded and State funded projects in the areas redesignated to attainment by this action will be addressed through State conformity analyses and will be subject to the emissions budget established by the applicable maintenance plan. The Indianapolis-Evansville highway and any major modifications in public transportation will be subject to conformity analyses after Marion County is redesignated to attainment. If the changes to the public transportation system are minor, they are not required to be subject to conformity analyses.

Comment

A commenter has noted that the State has not shown that the improvements in air quality (occurring after the violation period of 1987 through 1989) are due to permanent and enforceable emission reductions as required in section 107(d)(3)(E)(iii) of the Act. The commenter argues that the September 4, 1992 USEPA redesignation policy guidance is clear in requiring analysis of whether the improved air quality has resulted in part from either unique meteorological conditions or adverse economic conditions. Air quality improvements due to these air quality impacts are not permanent, and, therefore, are not creditable. These aspects have been neglected in both the State redesignation request and in USEPA's subsequent rulemaking.

USEPA Response

The September 4, 1992 USEPA policy guidance referred to by the commenter states that "[a]ttainment resulting from temporary reductions in emission rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions." Neither the State nor the USEPA has neglected these issues in preparing and analyzing Indiana's redesignation request. Rather, the USEPA believes that the State has adequately demonstrated that the improvement in air quality resulting in the attainment of the ozone standard is not due to temporary economic downturn or unusually favorable meteorology. As explained below, the State has made an adequate demonstration that the improvement in air quality in these Counties leading to attainment of the ozone standard was not due to temporary reductions in emission rates or to unusually favorable meteorology.

With respect to the issue of temporary emission reductions due to economic downturn, the USEPA noted in the July 8, 1994 direct final rulemaking (59 FR 35048), that the State has shown that attainment of the ozone standard is attributable to permanent and enforceable emission reductions that have occurred in Elkhart, Marion, and St. Joseph Counties. These emission reductions have resulted from source closures, implementation of emission controls on stationary sources (this included added emission reductions resulting from the correction of reasonably available control technology regulations in response to regulation deficiencies previously noted by the USEPA), implementation of the federal motor vehicle emission control program, and implementation of gasoline reid vapor pressure restrictions (Indiana implemented USEPA reid vapor

pressure requirements, lowering reid vapor pressure limits to 9.0 pounds per square inch by 1992). All of these controls are permanent and enforceable. In the case of source closures, the source permits associated with these sources have been terminated and will not be reissued. Substantial emission reductions have occurred as a result of the imposition of permanent and enforceable emission controls, and it is USEPA's judgment that these reductions, rather than reductions attributable to any temporary economic downturn, are primarily responsible for the improvement in air quality that led to the attainment of the ozone standard in these Counties. The continued attainment status of these Counties in the years since the 1990–1992 period further indicates that temporary adverse economic conditions in the 1990–1991 period were not a significant factor in the attainment of the ozone standard in these Counties.

With respect to the issue of unusual meteorology, the State has compared the average meteorological parameters of maximum daily temperatures, daily mean wind speeds, percents of possible sunshine, and percents of relative humidity for the periods of May through August, 1990 through 1992, with the 30-year (1961–1990) norms for these parameters. In all three areas considered for redesignation, the 1990–1992 averages for these parameters agreed with those for the 30-year norms with only minor differences. Based on averaged parameters, it can be concluded that the 1990–1992 period was not atypically nonconducive to ozone formation. Thus, the State has adequately demonstrated that the air quality improvement was not due to unusually favorable meteorology.

Comment

A commenter notes that the failure to require correction of the State's part D New Source Review (NSR) program as a condition for approval of the area redesignations is in conflict with the Act and with USEPA guidance. The commenter notes that the USEPA rulemaking statement that part D NSR requirements are not generally applicable upon redesignation to attainment conflicts with section 107(d)(3)(E)(v) and is not justified in the USEPA guidance. The commenter notes that, although the USEPA September 4, 1992 policy memorandum implied that there is some flexibility in replacing part D NSR requirements with Prevention of Significant Deterioration (PSD) requirements, a subsequent USEPA September 17, 1993 policy clarification memorandum eliminated this flexibility.

The commenter also notes that the USEPA redesignation rulemaking erroneously allows the removal of existing part D NSR requirements, such as the requirements for offsets and Lowest Achievable Emission Rates (LAER). All of these existing programs disappear or are replaced by a part C PSD program. The commenter argues that the redesignations to attainment are not acceptable unless the NSR part D requirements are retained as contingency measures. It is noted that PSD for sources of ozone precursors does not require emission offsets for new sources, only requires Best Available Control Technology (BACT) emission controls rather than LAER, and has different source emission thresholds than does part D NSR. The implication is that shifting to PSD from part D NSR will weaken emission control requirements without adequate safeguards.

The commenter notes that the statement in the redesignation rulemaking that the section 175A(d) requirement (that all SIP measures be converted to contingency measures) should not apply to part D NSR because of the differing use of the term "measure" at section 161 of the Clean Air Act is irrelevant. The relevance of the part C (section 161) reference to a part D NSR requirement is questionable. The allusion to USEPA's historical practices do nothing to negate the explicit imperatives of the Clean Air Act and other USEPA guidance.

The commenter goes on to state that based on USEPA's logic in eliminating the part D NSR requirement, any and all other applicable part D requirements, including those which have been previously met and even relied upon in demonstrating attainment, could be eliminated without an analysis demonstrating that maintenance would be protected.

USEPA Response

USEPA believes that the areas that are the subject of Indiana's redesignation request may be redesignated to attainment notwithstanding the lack of a fully approved NSR program meeting the requirements of the 1990 Clean Air Act Amendments and the absence of such an NSR program from the contingency plan. This view, while a departure from the past policy, has been set forth by the USEPA as its new policy in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation ("Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," October 14, 1994).

USEPA believes that its failure to insist on a fully approved NSR program as a pre-requisite to redesignation to attainment is justifiable as an exercise of the Agency's general authority to establish *de minimis* exceptions to statutory requirements. See *Alabama Power Co. v. Costle*, 636 F.2d 323, 360–61 (D.C. Cir. 1979). Under *Alabama Power Co. v. Costle*, the Agency has the authority to establish *de minimis* exceptions to statutory requirements where the application of the statutory requirements would be of trivial or no value environmentally.

In this context, the issue presented is whether the Agency has the authority to establish an exception to the requirement of section 107(d)(3)(E) that USEPA has fully approved a state implementation plan meeting all of the requirements applicable to the area under section 110 and part D of Title I of the Act. Plainly, the NSR provisions of section 110 and part D are requirements that were applicable to the Indiana areas seeking redesignation at the times of submission of the requests for redesignation. Thus, on its face, section 107(d)(3)(E) would seem to require that the State has submitted and USEPA has fully approved an NSR program meeting the requirements of the Act before the areas could be redesignated to attainment.

Under the Agency's *de minimis* authority, however, it may establish an exception to an otherwise plain statutory requirement if its fulfillment would be of little or no environmental value. In this context, it is necessary to determine what would be achieved by insisting that there be a fully approved NSR program in place prior to the redesignation of the Indiana areas. For the following reasons, USEPA believes that requiring the adoption and full approval of an NSR program prior to redesignation would not be of any significant environmental value in this case.

Indiana has demonstrated that maintenance of the ozone NAAQS will occur even if the emission reductions expected to result from an NSR program due to emission offsets do not occur. The emission projections made by Indiana to demonstrate maintenance of the NAAQS considered growth in point source emissions (along with growth for other source categories) and were premised on the assumption that PSD would be in effect, rather than NSR, during the maintenance period. Under NSR, significant point source emissions growth would not occur. Indiana assumed that NSR would not apply after

redesignation to attainment, and, therefore, assumed source growth factors based on projected growth in the economy and in the areas' populations. (It should be noted that the growth factors assumed may be overestimates under PSD, which would restrain source growth through the application of best available control techniques.) Thus, contrary to the assertion of the commenters, Indiana has demonstrated that there is no need to retain NSR as an operative program in the state implementation plan during the maintenance period in order to provide for continued maintenance of the NAAQS. (If this demonstration had not been made, NSR would have had to have been retained in the state implementation plan as an operative program since it would have been needed to maintain the ozone standard.)

The other purpose that requiring the full approval of an NSR program might serve would be to ensure that NSR would become a contingency provision in the maintenance plan required for these areas by sections 107(d)(3)(E)(iv) and 175A(d). These provisions require that, for an area to be redesignated to attainment, it must receive full approval of a maintenance plan containing "such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area." Based on this language, it is apparent that whether an approved NSR program must be included as a contingency provision depends on whether it is considered as a "measure" for the control of the pertinent air pollutants.

As USEPA noted in the proposed rulemaking regarding these redesignation requests, the term "measure" is not defined in section 175A(d) and Congress utilized that term differently in different provisions of the Act with respect to the PSD and NSR permitting programs. For example, in section 110(a)(2)(A), Congress required State implementation plans to include "enforceable emission limitations and other control measures, means, or techniques * * * as may be necessary or appropriate to meet the applicable requirements of the Act." In section 110(a)(2)(C), Congress required that State implementation plans include "a program to provide for the enforcement of the *measures* described in subparagraph (A), *and* regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D." (Emphasis added.) If the term "measures" as used in sections 110(a)(2)(A) and (C) had been intended to include PSD and NSR there would have been no point to requiring that State implementation plans include both measures *and* preconstruction review under parts C and D (PSD and NSR). Unless "measures" referred to something other than preconstruction review under parts C and D, the reference to preconstruction review programs in section 110(a)(2)(C) would be rendered mere surplusage. Thus, in sections 110(a)(2)(A) and (C), it is apparent that Congress distinguished "measures" from preconstruction review. On the other hand, in other provisions of the Act, such as section 161, Congress appeared to include PSD within the scope of the term "measures."

Contrary to the comments in this proceeding, USEPA does not believe that the fact that Congress used the undefined term "measure" differently in different sections of the Act is "irrelevant." Rather, this indicates that the term is susceptible to more than one interpretation and that USEPA has the discretion to interpret it in a reasonable manner in the context of section 175A. Inasmuch as Congress itself has used the term in a manner that excluded PSD and NSR from its scope, USEPA believes it is reasonable to interpret "measure," as used in section 175A(d), not to include NSR. That this is a reasonable interpretation is further supported by the fact that PSD, a program that is the corollary of NSR for attainment areas, goes into effect in lieu of NSR.[1] This distinguishes NSR from other required programs under the Act, such as enhanced inspection and maintenance and reasonably available control technology, which have no corollary for attainment areas. Moreover, USEPA believes that those other required programs are clearly within the scope of the term "measure."[2]

USEPA disagrees with the commenters' suggestion that USEPA's logic in treating NSR in this manner means that other applicable part D requirements, including those that have been previously met and previously relied upon in demonstrating attainment, could be eliminated without an analysis demonstrating that maintenance would be protected. As noted above, Indiana has demonstrated that maintenance would be protected with PSD in effect, rather than NSR. Thus, USEPA is not permitting NSR to be removed without a demonstration that maintenance of the standard will be achieved. Moreover, USEPA has not amended its policy with respect to the conversion of other State implementation plan elements to contingency provisions, which is that they may be converted to contingency provisions only upon a showing that maintenance will be achieved without them being in effect. Finally, as noted above, USEPA believes that the NSR requirement differs from other requirements, and does not believe that the rationale for the NSR exception extends to other required programs.

The position taken in this action is consistent with USEPA's current national policy. That policy permits redesignations to proceed without otherwise required NSR programs having been fully approved and converted to contingency provisions provided that the area demonstrates, as has been done in this case, that maintenance will be achieved with the application of PSD rather than NSR.

III. Final Rulemaking Action

The State of Indiana has met the requirements of the Act revising the Indiana ozone SIP. The USEPA approves the redesignation of St. Joseph, Elkhart and Marion Counties, Indiana to attainment of the ozone NAAQS. Final determination is being withheld for Vanderburgh County at this time. Further consideration of the Vanderburgh County redesignation will be made upon completion of the quality assurance of the Alcoa monitoring site data.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on

[1] USEPA is not suggesting that NSR and PSD are equivalent, but merely that they are the same type of program.

[2] USEPA also notes that, in the case of the Indiana areas, the possible contingency provisions include volatile organic compound (VOC) emission offsets for new and modified major sources; VOC emission offsets for new and modified minor sources; increasing the ratio of emission offsets required for new sources; and VOC controls on new minor sources (less than 100 tons per year). Furthermore, Indiana's construction permit program requires that, prior to constructing any source in any attainment or nonattainment area in the State, it must be demonstrated that the resultant emissions will not exacerbate an existing air quality violation or cause a new violation. This is consistent with USEPA's PSD requirements as specified at 40 CFR 52.21(k) and is provided for in Indiana's State implementation plan (see 40 CFR 52.793(b)).

January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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

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

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256–66 (1976).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: October 14, 1994.

David A. Ullrich,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.777 is amended by adding paragraph (f) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(f) *Approval.* The Indiana Department of Environmental Management submitted two ozone redesignation requests and maintenance plans requesting the ozone nonattainment areas to be redesignated to attainment for ozone: South Bend/Elkhart (St. Joseph and Elkhart Counties), submitted on September 22, 1993; Indianapolis (Marion County), submitted on November 12, 1993. The redesignation requests and maintenance plans meet the redesignation requirements in section 107(d)(3)(d) of the Act as amended in 1990. The redesignations meet the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Indiana Ozone State Implementation Plan for the above mentioned counties.

* * * * *

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7871q.

2. In § 81.315 the Indiana—Ozone table is amended by revising the entries for "Indianapolis Area" and "South Bend-Elkhart Area" to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—OZONE

Designated areas	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Indianapolis Area:				
Marion County	November 30, 1994	Attainment.		
* * *	*	*	*	*
South Bend-Elkhart Area:				
Elkhart County	November 30, 1994	Attainment.		
St. Joseph County	November 30, 1994	Attainment.		
* * *	*	*	*	*

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

* * * * *

[FR Doc. 94–26428 Filed 10–28–94; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 501 and 552

The Federal Maritime Commission—General Financial Reports of Vessel Operating Common Carriers in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is transferring the program responsibility and delegated authorities with regard to financial reporting by common carriers by water in the domestic offshore trades from the Bureau of Tariffs, Certification and Licensing, to the Bureau of Trade Monitoring and Analysis. Notice and public procedure are not necessary prior to the issuance of this rule because it deals solely with matters of agency organization and procedure.

EFFECTIVE DATE: October 31, 1994.

FOR FURTHER INFORMATION CONTACT: Austin L Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 800 North Capitol Street. N.W., Washington, D.C. 20573–0001, (202) 523–5787.

List of Subjects

46 CFR Part 501

Administrative practice and procedure; Authority delegations; Organization and functions; Seals and insignia.

46 CFR Part 552

Maritime carriers; Reporting and recordkeeping requirements; Uniform system of accounts.

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

1. The authority citation for Part 501 continues to read as follows:

Authority: 5 U.S.C. 551–557, 701–706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. app. 801–848, 876, 1111, and 1701–1720; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub. L. 89–56, 79 Stat. 195; 5 CFR Part 2638.

2. Section 501.5 is amended by revising the first sentences of paragraphs (g) and (h) to read as follows:

§ 501.5 Functions of the organizational components of the Federal Maritime Commission.

* * * * *

(g) * * * Under the direction and management of the Bureau Director, the *Bureau of Trade Monitoring and Analysis* develops and administers programs in connection with the anticompetitive and cooperative arrangements and practices of common carriers by water, freight forwarders and terminal operators in the foreign and domestic commerce of the U.S., including the filing of common carrier agreements under section 15 of the Shipping Act, 1916, ocean common carrier agreements under section 5 of the Shipping Act of 1984, the financial reporting by ocean common carriers in the domestic offshore trades, and the filing of agreements by marine terminal operators under section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984. * * *

(h) * * * Under the direction and management of the Bureau Director, the *Bureau of Tariffs, Certification and Licensing* plans, develops and administers programs in connection with tariffs filed by common carriers and marine terminal operators; ocean common carrier service contracts; financial responsibility of non-vessel operating common carriers; licensing ocean freight forwarders; certifying the financial responsibility of passenger vessel owners and operators. * * *

* * * * *

3. Section 501.26 is amended by adding a new paragraph (n) reading as follows:

§ 501.26 Delegation to the Director, Bureau of Trade Monitoring and Analysis.

* * * * *

(n) Authority to approve or disapprove applications as specified in Part 552 of this chapter for extensions of time for filing (§ 552.2(c)), alternative data (§ 552.2(d)) and waiver of detailed filing requirements (§ 552.2(e)).

4. Section 501.27 is amended by removing paragraph (m), and redesignating paragraphs (n) through (p) as paragraphs (m) through (o).

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

1. The authority citation for Part 552 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a and 847.

§ 552.2 [Amended]

2. Section 552.2(a) is amended by revising the address for filing Statements of Financial and Operating Data as follows:

(a) * * *

Federal Maritime Commission, Bureau of Trade Monitoring and Analysis, 800 North Capitol Street, NW., Washington, DC 20573.

* * * * *

Joseph C. Polking,

Secretary.

[FR Doc. 94–26900 Filed 10–28–94; 8:45 am]
BILLING CODE 6730–01–W

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 102594B]

Atlantic Tuna Fisheries; Bluefin Tuna

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

ACTION: Closure of the General category fishery.

SUMMARY: NMFS has determined that the 8 metric tons (mt) set-aside for the late-season General category fishery in the New York Bight beginning September 20, 1994, will have been taken by October 26, 1994. Therefore, the General category fishery will be closed effective at 2330 hours (11:30 pm) on Wednesday, October 26, 1994. This action is being taken to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: 2330 hours on October 26, 1994, through December 31, 1994.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Raymond E. Baglin, 508–281–9140.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of Atlantic bluefin tuna (ABT) by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the International Commission for the Conservation of Atlantic Tunas recommended U.S. quota among the various domestic fishing categories.

Implementing regulations for the Atlantic Tuna Fisheries at 50 CFR 285.22(a) provide for an annual quota of 531 mt of large medium and giant ABT to be harvested from the Regulatory Area by vessels permitted in the General category. Of this amount, 65 mt are to be set aside for a late-season fishery beginning September 15. Based on

landings statistics, the fishery was closed on August 15, 1994, with only 23 mt remaining for the late-season set-aside. A reallocation of 18 mt from the reserve increased the set-aside to 41 mt, of which 33 mt were allocated to General category fishermen from all areas to be fished from September 15 through September 17, and 8 mt were allocated to the New York Bight fishery to be fished from September 20 until the 8 mt are taken.

Based on landing reports, NMFS has determined that the late-season quota of ABT allocated for General category vessels fishing in the New York Bight must be closed. Fishing for, retention of, possession of, or landing large medium or giant ABT by vessels in the General category must cease by 2330 hours October 26, 1994. This action is being taken to prevent overharvest of the quota.

This closure of the late-season General category fishery will not affect other categories fishing for ABT. As of this date, the Incidental and Angling categories remain open.

Classification

This action is taken under 50 CFR 285.20(b) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: October 25, 1994.

Richard H. Schaefer,

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

[FR Doc. 94–26866 Filed 10–26–94; 11:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 209
Monday, October 31, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 94–097–1]

Horses From Spain; Change in Disease Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of horses to remove Spain from the list of countries in which African horse sickness exists. We believe that Spain is free of African horse sickness, and that restrictions on the importation of horses from Spain to prevent the spread of African horse sickness into the United States are no longer necessary. This action relieves unnecessary restrictions on the importation of horses from Spain.

DATES: Consideration will be given only to comments received on or before December 30, 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. 94–097–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Import-Export Products Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 758A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7834.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) state the provisions for the importation into the United States of specified animals to prevent the introduction of various animal diseases, including African horse sickness (AHS). AHS, a fatal equine viral disease, is not known to exist in the United States. Section 92.308(a)(2) of the regulations lists countries that the Animal and Plant Health Inspection Service (APHIS) considers affected with AHS, and sets forth specific requirements for horses which are imported from those countries. APHIS requires horses intended for importation from any of the countries listed, including horses that have stopped in or transited those countries, to enter the United States only at the port of New York and be quarantined at the New York Animal Import Center in Newburgh, NY, for at least 60 days.

Spain has applied to the United States Department of Agriculture to be recognized as free from AHS. Spain's last diagnosed case of AHS was on October 29, 1990. From December 1990 through December 1992, Spain conducted an extensive AHS vaccination program. Effective November 30, 1993, the European Union declared Spain to be free of AHS.

APHIS has reviewed the documentation submitted by the Government of Spain in support of its request. An APHIS official also performed an on-site inspection of two of Spain's Animal Health Ministry's laboratories. The APHIS official inspected both the Laboratory of Animal Health and Production at Algetes and the Regional Laboratory of Animal Health and Production at Cordoba. Both laboratories have been heavily involved in eradication, vaccination, research, and surveillance activities for AHS. The laboratory at Algetes serves as the European Union's Reference Laboratory for AHS and is responsible for providing verification of any suspected positive test result for the AHS virus submitted by the 17 regional laboratories in Spain. In 1993, the regional laboratory at Cordoba tested 180 spleen samples from horses in Spain that died of unknown causes or were killed in traffic accidents; all results were negative for the AHS virus. The APHIS official conducting the on-site evaluation concluded that the laboratory systems are highly effective and contributed to the eradication of AHS from Spain.

Based on the information discussed above, we believe that Spain qualifies for removal from the list of countries, in § 92.308(a)(2) of the regulations, which APHIS considers affected with AHS. This proposed action would relieve restrictions which require horses imported from Spain to enter the United States only at the port of New York and be quarantined at the New York Animal Import Center in Newburgh, NY, for at least 60 days. This proposed action would allow horses from Spain to be shipped to and quarantined at ports designated in § 92.303, and would reduce the quarantine period to an average of three days to meet the quarantine and testing requirements specified in § 92.308.

Executive Order 12866 and Regulatory Flexibility Act

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

The primary impact of this proposal will be on U.S. importers of horses from Spain, none of whom can be considered a small entity. These importers will no longer be required to quarantine horses from Spain for 60 days at the New York Animal Import Center in Newburgh, NY. The proposed rule would allow horses from Spain to be shipped to and quarantined at ports designated in § 92.303, and would reduce the quarantine and testing period to an average of three days to meet quarantine requirements specified in § 92.308.

The number of horses imported from Spain each year is extremely small. In 1993, the United States imported 20,715 horses, mules, and burros, of which only nine came from Spain. Removing the requirement for a 60-day quarantine at the New York Animal Import Center in Newburgh, NY, for horses from Spain will make the importation of these horses less expensive and logistically easier. We anticipate that the number of horses imported from Spain may slightly increase. However, with the very small number of horses imported from Spain, we anticipate the overall economic impact on businesses and individuals would be minimal.

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed 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 would be 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 would continue 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).

§ 92.308 [Amended]

2. In § 92.308, paragraph (a)(2) would be amended by removing "Spain,".

Done in Washington, DC, this 26th day of October 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–26905 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 618, and 620

RIN 3052–AB43

Organization; General Provisions; Disclosure to Shareholders; Technical Assistance and Financially Related Services; Member Insurance

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes to amend the regulations governing Technical Assistance and Financially Related Services and Member Insurance. Subpart A of the proposed regulation defines what constitutes technical assistance, financial assistance and financially related services and what types of activities the Farm Credit System (System) institutions are authorized to provide. The proposed regulation allows greater flexibility in this area, while maintaining the FCA's ability to regulate safety and soundness risks. The FCA's existing prior approval requirement is eliminated and replaced with a post-review process for all services, except for those that have never been authorized by the FCA. The FCA also proposes to amend the Member Insurance regulation to clarify existing rules and reduce regulatory burdens wherever possible.

DATES: Comments should be received on or before December 30, 1994.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration, McLean, Virginia.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authorities

Under title I, section 1.12; title II, sections 2.5 and 2.12 (15); and title III, section 3.7 of the Farm Credit Act of 1971, as amended (the Act), the FCA is responsible for promulgating regulations governing the offering and administering of technical assistance, financial assistance, and financially related services by banks and associations (hereinafter referred to as "related services").

System institutions have offered credit life insurance and a variety of other credit-related services over the past 40 years. Pursuant to regulations adopted in 1984, the FCA is responsible for the review and approval of bank financial services policies and must also approve each new related service program on a case-by-case basis before it is offered by a bank or its affiliated associations. The FCA took no further Systemwide action until 1993, when the Board adopted a policy statement (58 FR 36410, July 2, 1993) and subsequently issued a bookletter (366–OE, September 3, 1993) authorizing the providing of related services outside an institution's chartered territory, under certain circumstances.

On December 2, 1993, FCA Board Chairman Billy Ross Brown completed a study entitled "The Farm Credit System's Authorized Services" and directed staff to use it as a basis for revising the existing regulations. The proposed regulation also incorporates the intent of the FCA Board's Policy Statement on Regulatory Philosophy published in the **Federal Register** on February 17, 1994 (59 FR 32189).

II. Regulatory Burden Comments and Petitions for Rulemaking

On June 23, 1993, the FCA Board published a "Statement of Regulatory Burden" (58 FR 34003) that requested comments regarding how the FCA could lessen the regulatory burden on System institutions. In response, the agency received three comment letters on related services, including one on Member Insurance. These comments are addressed in this proposed regulation and are referred to as "Regulatory Burden Comments."

Also in 1993, the Farm Credit Banks' Presidents Planning Committee (PPC) authorized an initiative to review the FCA regulations and make recommendations concerning those that the System believes are not directly related to safety and soundness or unduly restrict the full exercise of authorities granted by the Act. This

initiative produced a System work group on related services (PPC work group) which included representatives from associations and banks in the AgriBank, Baltimore, Columbia, Springfield, and Western Farm Credit Districts. In July 1993, FCA met with the PPC work group to hear its concerns and objectives.

The PPC work group completed its study on November 2, 1993, and provided the results to the FCA Board for its consideration in this proposed rule. The study recommended:

(1) Elimination of existing prior approval requirements;

(2) revision of coordination requirements to provide for increased flexibility in providing intra- and inter-district services;

(3) revision of the requirement for bank annual review of service programs;

(4) increased flexibility in how banks and associations administer related service programs; and

(5) various technical and clarifying changes in subparts A and B.

On April 4, 1994, the FCA received a "Petition for Rulemaking to Revise 12 CFR part 618—subpart A, Concerning Financially Related Services" (hereinafter referred to as "FRS petition"), submitted by a Washington, D.C., law firm on behalf of one agricultural credit association (ACA), three Federal land credit associations (FLCAs) and five production credit associations (PCAs) in California and Michigan. The petitioners supported the PPC work group's recommendations, but suggested that, in light of the FCA Board's February 17, 1994 Policy Statement on Regulatory Philosophy (59 FR 32189), the FCA should consider a broader rulemaking proceeding and more fundamental changes in the regulation than may have originally been contemplated.

The petitioners focused on areas where expanded authorities could be considered and requested that the FCA:

(1) Define related services (although no definition was suggested);

(2) authorize the offering of other services for a fee;

(3) provide for a non-exclusive list of approved related services;

(4) eliminate the prior approval requirement;

(5) eliminate the annual bank review of related service programs; and

(6) encourage innovative means for offering related services that meet borrower needs.

On May 4, 1994, the FCA received a petition from an ACA in Michigan (hereinafter referred to as "Insurance petition") asking the FCA to reconsider the requirement in the Member Insurance regulations (subpart B) that insurance only be sold to members who have a debtor/creditor relationship.

In addition to the above petitions and System input, over the past 18 months the FCA has received prior approval requests and technical/interpretive questions that have raised issues regarding what types of services are authorized, what types of institutions can offer services, and who the recipients of these services can be. Issues included questions about incidental authorities, sale of insurance out-of-territory, and sale of fee appraisals other than directly to members or borrowers.

III. Proposed Regulatory Approach

System institutions desire greater flexibility to use their statutory authority for providing related services in order to serve the evolving needs of farmers and ranchers and to meet competitive pressures. Although the FCA understands the System's desire to expand current related service activities, the agency's primary concerns continue to focus on safety and soundness issues and whether the System remains within the limits of current statutory authorities.

Underlying these proposed regulations, is FCA's conclusion that, under most circumstances, it would be appropriate to replace the current prior approval requirement with specific criteria for determining what services can be offered and under what circumstances. However, the FCA, in its role as a safety and soundness regulator, wishes to reserve the right to review new services in order to ensure that they would not present excessive risk to the System. Because it is difficult to foresee what types of new services will be proposed, it is impracticable to prescribe specific regulations for new services that have yet to be offered by the System. The FCA, therefore, proposes to remove as much of the regulatory burden as possible, while maintaining its ability to apply the statute, achieve regulatory objectives, and preserve flexibility. The FCA has also reduced the role the funding bank is required, by regulation, to play in overseeing such programs. This allows the institution offering a service to take the primary responsibility for the related services it provides.

The proposed regulation in part 618 defines terms and establishes specific authorizing criteria so that each institution can evaluate the services it would like to offer its customers. Thus, the proposed regulation clarifies the FCA's primary safety and soundness concerns and distinguishes between the types of services that can be offered and the programs for delivering these services.

Subpart A has been rewritten and reorganized because of the wholesale nature of the regulatory changes proposed by the FCA. In proposed § 618.8000, the FCA sets forth a definition of "related service" which includes insurance and encompasses activities previously referred to as technical assistance, financial assistance, or financially related services. The proposed regulation also details regulatory eligibility requirements for recipients of such services.

In proposed § 618.8010 ("Related Services Authorization Process"), the FCA replaces the prior approval in the existing regulation in part, by communicating to all institutions those services it has approved, which may then be offered without further regulatory approval. The proposed regulation also describes the process for the FCA's review of new services.

Proposed § 618.8015 ("Policy Guidelines") requires each institution offering related services to adopt a policy addressing related services. Proposed § 618.8020 ("Feasibility Requirements") contains criteria for the feasibility analysis that must be performed in conjunction with developing a new service program.

Proposed § 618.8025 ("Feasibility Reviews") addresses the statutory requirement for the board of directors of each funding bank to determine that association-related service programs are feasible. The proposed regulation requires the association to perform a feasibility analysis and requires the bank's board of directors to verify that this analysis has been done, and limits the scope and frequency of reviews that the bank must perform.

The final section in subpart A, § 618.8030 ("Out-of-Territory Related Services"), establishes a regulatory basis for providing out-of-territory related services. The FCA's policy statement and bookletter on offering services outside an institution's chartered territory would be superseded by these provisions.

The proposed Member Insurance regulation in subpart B remains largely unchanged with two exceptions: (1) The requirement for a debtor/creditor relationship would no longer be necessary for sales of certain types of insurance; and (2) employee compensation for insurance sales would be allowed within certain limits.

IV. Section-by-Section Analysis

A. Subpart A—Related Services

1. Section 618.8000—Definitions

Section 618.8000 of the proposed regulation would define the term "program" to mean the method or procedure by which an institution provides a related service. The purpose of the definition is to distinguish between the concept or type of activity that will be provided, such as farm business consulting, and the manner in which an institution will provide the particular service. The distinction between the type of related service and the institution's program for providing the service will be addressed further in the discussion of proposed § 618.8010. "Related services" would be defined to mean any activity provided by a System bank or association that pertains to the recipient's on-farm, aquatic or cooperative operation, including control of related financial matters. The definition is intended to be broadly construed in order to encompass services, other than the making of loans, that an institution may want to offer to persons or entities eligible to borrow. It should be noted that the proposed definition does not rely upon whether the institution charges fees or makes a profit from offering a service in making a determination as to whether it is considered a "related service." The FCA recognizes that institutions may offer related services at cost or at a slight loss in order to increase customer satisfaction or attract new customers. Such decisions are considered business decisions that will be reviewed in the examination context. The proposed definition of related services is not intended to include advertising or purely promotional activities.

Although other terms, such as "technical assistance," "financial and technical assistance," and "financially related services," are referenced in the Act, the distinction among these types of services has become negligible. In fact, the legislative history for the enactment of the Farm Credit Act of 1971 [1] does not distinguish among these terms. Therefore, in order to reduce any confusion, the proposed definition would include all services referred to above.

The PPC work group commented that the on-farm requirement should not be interpreted to limit authorized related services to only those services that relate to the physical operations of the farm. The FCA agrees that Congress did not intend the on-farm requirement to be interpreted in such a restrictive manner and, historically, the FCA has not done so in approving related service programs. The FCA interprets the on-farm requirement to mean that related services must pertain to the farming or aquatic operations of the recipients or be useful in managing the financial matters of such operations. In fact, many of the services specifically mentioned by Congress when it enacted the related services authority in 1971 are related to farming and aquatic operations and controlling the risks associated with such operations rather than being a direct part of the physical operation. Those services specifically mentioned in the statute or legislative history include insurance, estate planning, and tax services.

Finally, the proposed regulation would also define "System banks and associations" to include Farm Credit Banks (FCBs), Agricultural Credit Banks (ACBs), banks for cooperatives (BCs), production credit associations (PCAs), agricultural credit associations (ACAs), Federal land bank associations (FLBAs), and Federal land credit associations (FLCAs). The Federal Agricultural Mortgage Corporation and the Farm Credit Banks Funding Corporation would not be included because these and other similar Farm Credit institutions are not authorized to provide related services. Although service corporations are not included within the term "System banks and associations," these entities would continue to be authorized to offer related services, except insurance, based on section 4.25 of the Act.[2]

2. Section 618.8005—Eligibility

Based on the provisions of sections 1.12, 2.5, 2.12(15) and 3.7 of the Act, proposed § 618.8005 requires that related services [3] be offered by an institution to persons or entities eligible to borrow from the System. The proposed regulation would determine eligible recipients for related services by reference to persons eligible to borrow as defined in the lending regulations at part 613 of this chapter. Proposed § 618.8005(a) would authorize FCBs and associations to offer related services to the persons eligible to borrow as defined in §§ 613.3010; 613.3020(a)(1), (a)(2), and (b); and 613.3045. For BCs, proposed § 618.8005(b) would authorize related services to be provided to eligible borrowers as defined in §§ 613.3110 and 613.3120. Proposed § 618.8005(c) would authorize ACBs to offer related services appropriate to on-farm and aquatic operations to persons eligible to borrow as specified in paragraph (a) of this section and to offer related services appropriate to cooperative operations to entities eligible to borrow as specified in paragraph (b) of this section.

The FCA is currently developing proposed amendments to the lending eligibility regulations. Once any lending eligibility amendments become final, § 618.8005 would be modified as necessary to conform to lending eligibility.

The FCA believes that marketers and processors that meet the eligibility requirements of § 613.3045 would also be included within the recipients that Congress considered eligible to receive related services. For any processing and marketing unit to be eligible to borrow, there must be a portion of the operation's throughput that is produced on-farm by the entity or its owners. The FCA believes that related services provided to marketing and processing units would be appropriate to the on-farm or aquatic operations of the unit or its owners. Therefore, these entities would be included within the eligible recipients specified in proposed § 618.8005(a). Because rural home residents and farm-related businesses do not have farming or aquatic operations, services provided to them would not meet the statutory "on-farm" requirement and, therefore, they would continue to be excluded from the eligible recipients specified in proposed § 618.8005.

The proposed regulation would approach the eligibility provisions for related services offered by ACBs in the same manner as eligibility is treated for FCBs and BCs. An ACB would be authorized under proposed § 618.8005(c) to provide related services to persons eligible to borrow from FCBs. Such related services would have to be appropriate to the on-farm and aquatic operations of the recipients. Further, an ACB could provide related services to its cooperative customers, as long as the service is appropriate to their cooperative operations. Therefore, although an FCB and BC will be combined into an ACB, the services that can be provided to each type of borrower under titles I, II, and III of the Act would not change under the proposed regulation.

Recent requests from System institutions have led the FCA to

[1] Pub. L. 92–181, Dec. 10, 1971.

[2] Section 4.25 of the Act states that service corporations may perform all the functions and services of the banks, with the exception of extending credit and providing insurance.

[3] Although insurance is included within the definition of related services, more specific eligibility requirements are provided in revised § 618.8040; those requirements govern eligibility for receipt of insurance.

consider whether there are situations in which persons eligible to borrow may be denied the ability to receive the benefit of related services merely because an intermediary or other person or entity involved would not meet the eligibility requirements of the Act. The FCA believes that all farmers, ranchers, and other eligible persons and entities should be able to receive the full benefit of the related services authorized in the Act. Similar requests have been received asking the FCA to consider allowing the System to provide fee appraisals for agricultural real estate to entities such as the Farmers Home Administration (FmHA), commercial banks, and other lenders in connection with loan applications from persons eligible to borrow, and loan servicing actions (including bankruptcies and foreclosures) involving agricultural assets. The FCA also received a letter from the FmHA requesting that System institutions be authorized to provide the appraisals.

The FmHA and certain System institutions have stated that there is a shortage of qualified agricultural appraisers in certain areas of the country, especially following the Financial Institutions Reform, Recovery and Enforcement Act.[4] System personnel, who have developed an expertise in agricultural appraisals, could help meet this need. The availability of qualified appraisers would benefit farmers and ranchers in that their property would be fairly valued in situations such as loan applications and loan servicing. Under current regulations, System institutions have not been able to provide the appraisals when they are provided directly to the FmHA or a commercial bank, entities not eligible to borrow from a System institution. Also, the FmHA procedures provide that the FmHA will contract for appraisals rather than having each borrower obtain an appraisal.

Therefore, proposed § 618.8005(d) would provide that related services may be offered to recipients that do not otherwise meet the eligibility requirements, as long as such service is offered in connection with loan applications, loan servicing, and other transactions between these recipients and persons or entities eligible to borrow under the criteria in proposed § 618.8005(a), (b), or (c) discussed above.

The service in question would have to be a part of or pertain to the transaction. For example, if a System institution offered a soil testing service, a natural food store wishing to purchase produce from a farmer could utilize the System institution's service to test the soil for pesticides. Although the eligible farmer directly benefits from the service and could arrange for the testing from the institution, the food store may wish to contract for the service directly in order to ensure independence of the testing. The System institution could not, however, offer tax planning services to the natural food store because tax planning does not pertain to the store's transaction with the farmer and does not directly benefit the eligible farmer. In addition, the authority to provide related services in § 618.8005(d) would not depend on which party arranges for or pays for the related services. Finally, for BCs and ACBs, proposed § 618.8005(d) would not change the requirements of § 613.3120 of this chapter that a voting stockholder must substantially benefit from services provided in connection with foreign export or import transactions.

One of the Regulatory Burden comments stated that System institutions should have the authority to provide related services to non-eligible entities as long as such services did not comprise the majority of the institution's program. The FCA does not believe that statutory or regulatory eligibility requirements depend on the percentage of an institution's services that are provided to the person or entity whose eligibility is in question, and did not include this suggestion in the proposed regulation.

Finally, the FCA does not agree with the view advanced by the Farm Credit Council (FCC) and FRS petitioners that appraisals and other services could be provided to non-eligible entities pursuant to the institutions' incidental authorities under sections 1.5(21), 2.2(20), 2.12(20), and 3.2(16) of the Act. System institutions were created for the express purpose of providing lending and related services. It is a general principle of corporate law that incidental powers are those powers that are directly and immediately appropriate to the execution of powers expressly granted and cannot be used to waive a specific limitation on an express power.[5] Therefore, any use of incidental authorities for activities derived from either lending or related services express powers would still be subject to the limitations on those express powers.

3. Section 618.8010—Related Services Authorization Process

As part of its commitment to reducing the regulatory burden, the FCA proposes to eliminate the existing regulatory requirement that each System bank or association obtain the FCA's prior approval before providing a related service program. In addition, System institutions requested a change in the approval process to lessen the burden and speed up the process. A number of suggestions were made regarding the process; many of these have been incorporated into the proposed regulation.

The proposed regulation sharply reduces the FCA's up-front role in two ways. First, the FCA would only evaluate proposals for new related services up front, that is, only services that have not previously been approved by the FCA. Second, only the service itself, not an institution's program, would initially be evaluated. This means that the FCA's evaluation of new services could occur before the proposing institution prepares a complete feasibility analysis or its funding bank completes its review. In fact, while the FCA would expect well-documented service proposals, an institution would not need to devote valuable resources to developing its operational program before submitting a new related service for the FCA's evaluation. Following the FCA's authorization of the service, any authorized institution could develop and offer a program based on regulatory criteria in proposed §§ 618.8020 and 618.8025 without obtaining prior approval from the FCA. The institution's program would then be subject to review in the course of the examination process.

The first step in the proposed new process would be the compilation of related services that have been determined to meet the definition and other criteria specified in this regulation (the Related Service List or simply "the list"). As provided in proposed § 618.8010(c)(2), the list would briefly describe each related service, capturing key distinguishing aspects of the activity, as well as a designation of the types of institutions authorized to offer the specific services. Institutional restrictions would mainly be due to statutory limitations related to eligible recipients. Finally, any special conditions placed on offering a given service would be identified on the list. It is anticipated that these conditions would be the exception rather than the rule and would apply mainly to

[4] Pub. L. 101–73, Aug. 9, 1989.

[5] Fletcher Cyc. Corp. § 2485 (rev. perm. ed. 1989).

complex services, with readily identifiable safety and soundness risks.

Appendix A contains a sample list consisting of all previously approved related services known to have at least one active program among System banks and associations and those services specifically mentioned in the statute. The sample list is included as an attachment to this **Federal Register** document for informational purposes only and will not become part of the final regulation.

Although every attempt has been made to identify existing services, the FCA recognizes that its historical records may not be complete. Therefore, System banks and associations currently offering services that meet the related service definition, but are not part of the sample list, should submit such services during the comment period if they wish to continue providing them after the revised regulation becomes effective. Institutions should provide the title of the service and a brief description, including any previous action taken by the FCA on the related service. If there is no existing documentation, then the institution should provide sufficient information for the FCA to consider the service based on the provisions in proposed § 618.8010(b). These services may be included on the initial list to be published concurrently with the final regulation. If some services require further study, they will be considered for inclusion on the list after the regulation is finalized.

Once a service is determined to meet the regulatory criteria and is placed on the list, proposed § 618.8010(b) would provide that System banks and associations could develop programs and subsequently offer the related service, subject to any special conditions and institutional restrictions identified on the list. This proposal would eliminate the requirement in existing § 618.8000(c) that the FCA approve each institution's related services program. The FCA believes that an institution's program for offering the service and its capacity to offer that service can be reviewed during the examination process. Proposed § 618.8010(c)(4) would require that when a listed service is first offered by an institution, the institution must notify the FCA's Office of Examination field office responsible for examining that institution.

An institution that wishes to offer a related service not previously evaluated by the FCA would need to submit a written proposal pursuant to proposed § 618.8010(b). Neither a formal bank review nor a detailed operational program (per existing regulations) would be required prior to requesting that the FCA review the service. In the event of complex or controversial proposals, proposed § 618.8010(b)(3) acknowledges that the FCA, at its discretion, may publish the proposed service in the **Federal Register** for public comment.

No later than 60 days after receipt of a complete proposal, including any additional information the FCA may require, System institutions would be notified of the FCA's action pursuant to § 618.8010(b)(4). Although the FCA would normally act promptly on a proposed service, for good cause and prior to the expiration of the 60 days, the review period could be extended for up to a total of 120 days. The FCA would formally notify all System institutions of its action by bookletter or other appropriate forms of communication.

Proposed new related services would be evaluated by the FCA based on the provisions of proposed § 618.8010(b). The FCA would consider two key aspects in evaluating a related service. The first aspect is whether the service is authorized; that is, whether it meets the definition of a related service in proposed § 618.8000(b). For example, a service provided by a title I or title II lending institution would have to be appropriate to on-farm operations and would have to be targeted to the defined eligible recipients. When evaluating that service, the FCA would also consider whether the service would be appropriate to cooperative operations and, if so, include BCs and ACBs as authorized institutions.

The second key aspect the FCA would consider is whether significant risk factors are inherent in the service and whether they can be managed or eliminated. This evaluation would involve assessing the degree of risks in the areas of financial liability, operational matters, and conflicts of interest.

Financial liability includes any liability that could arise as a result of offering the service. For example, such liability could arise if institution personnel make management decisions on a customer's behalf. The primary concern is whether such liability has the potential to materially impact an institution's financial condition.

Operational risk is the risk involved in implementing a service. This risk could occur if an institution fails to properly prepare for or administer a service. Examples of how this could arise are: (1) If significant staff training is required in order to competently offer the service, but is not contemplated or planned; or (2) if there are substantial up-front costs in setting up a new service that may not be recouped.

Finally, conflict of interest would include any conflict that might arise between the interests of the institution and those of the recipient as a result of offering the service. An example would be the conflict that could arise when, as part of the farm business consulting service, an institution employee suggests a management strategy that requires the recipient to borrow more money.

If risks were identified in any of these areas but some modification could eliminate, minimize, or control them, the service could be added to the list with special conditions or institutional restrictions. In addition, in order to better evaluate risk areas, a service could be placed on the list subject to the condition that it only be offered on a pilot basis by one or more institutions. If such risks could not be minimized to a degree that would make the service appropriate for System institutions to provide, approval to provide the service would be denied. In considering the risks associated with a proposed new service, the FCA would evaluate the risks as they pertain to any System institution or the System as a whole. Program weaknesses would be addressed through the examination or enforcement functions of the FCA.

In considering the agency's role in reviewing proposed related services, the FCA considered a range of options, including the current prior approval approach and the proposal by the PPC work group. Under the PPC's proposal, institutions would notify the FCA of their intent to offer an existing or new related service program. If the FCA did not object within specified time periods, the institution could offer the service. Although this suggestion would reduce the current regulatory burden, the FCA believes that because it would require every institution to submit a program proposal to the FCA, it would still be more burdensome than necessary. The FCA proposes instead to evaluate each new service only once. If an institution concludes that the service meets the criteria for authorization, it could then offer such service once a feasibility analysis was prepared in accordance with the regulatory requirements. The FCA believes this proposed process will reduce time needed for staff review and the regulatory burden placed on System institutions, while appropriately minimizing the risks of offering unauthorized or unsafe and unsound services.

4. Section 618.8015—Policy Guidelines

Existing § 618.8000(b) authorizes district and bank boards to establish policies pertaining to related service programs. This section also includes general policy guidelines and requires that the FCA approve the policies. The FCA proposes to amend existing § 618.8000(b) primarily by eliminating the requirements that a district bank establish a single related services policy for the district and that the FCA approve these policies.

Section 618.8015 of the proposed regulation would require that each System institution offering related services formulate policies pertaining to the development, implementation, marketing, and offering of related services. This change would reduce the supervisory burden of the funding bank and appropriately place the responsibility on the offering institutions. This change would not, however, absolve the funding bank from providing the necessary guidance on districtwide issues, such as its approach for verifying the feasibility analyses of associations' related service programs.

Proposed § 618.8015 would also eliminate the requirement that the FCA approve district and bank policies. This proposed change is consistent with the FCA's intent to remove unnecessary prior approval functions and rely instead on the examination function to evaluate compliance, performance, and safety and soundness.

The FCA proposes to modify the existing guidance for the content of the related services policy. The proposed regulation would require the policy to include clearly stated purposes, objectives, and operating parameters. In addition, the proposed regulation would require institutions to link each related service program it offers to its business plan and long-term strategic goals. Proposed § 618.8015(b) and (c) retain the requirements in existing § 618.8000(b)(1) and (2) that all related services be offered on an optional basis and that all fees associated with a service be identified and disclosed to the recipient.

The FCA proposes to eliminate as unnecessary the specific requirements in existing § 618.8000(b)(4) that banks and associations maintain detailed records because other regulatory provisions exist that require maintaining such records in order to comply with the institutions' internal control policies.

The FCA also proposes to eliminate the requirement in existing § 618.8000(b)(4) that the bank annually review each service offered in the district. This change was also supported by the PPC work group and in the FRS petition. As discussed above, the FCA has concluded that the emphasis on accountability is at the institution level, and regularly reviewing an activity and reporting the results to the board should be a standard part of managing an institution.

5. Section 618.8020—Feasibility Requirements

Sections 1.12, 2.5, 2.12, and 3.7 of the Act authorize FCBs, ACBs, PCAs, ACAs, FLBAs, FLCAs and BCs, respectively, to offer related services. Each section specifies that there be a determination of feasibility before a related service is offered. The FCA believes that the ultimate accountability and responsibility in offering related services rests with the institution offering the service. Therefore, although the funding bank has a statutory role to determine that related services are feasible, each offering institution should document the feasibility of providing a related service.

Neither the statute nor the existing regulation defines feasibility. Under the existing approval process for related service programs, a definition is not critical because the feasibility determination is centralized at the bank level and reviewed by the FCA in the prior approval process. However, the proposed rule moves to a post-review environment, which creates a need to specify the feasibility criteria.

Section 618.8020 of the proposed regulation would enumerate minimum feasibility requirements. The FCA proposes that the feasibility analysis include support that a proposed related service is an FCA-authorized service. (If a proposed service is not authorized, the institution can request that it be authorized via the process outlined in § 618.8010(b).) The feasibility analysis would also include an overall cost/benefit analysis based on the evaluation of the market, pricing, competition, expected financial returns, operational risks, financial liability, and conflicts of interest. This would also include an analysis to show that the service is compatible with the offering institution's business plan and strategic goals. These requirements should not be interpreted as all-encompassing, and in many instances there will be other issues that will also need to be addressed.

6. Section 618.8025—Feasibility Reviews

Section 2.5 of the Act authorizes a PCA to offer related services as determined feasible by the board of directors of the FCB. Section 2.12(15) of the Act authorizes an FLBA to offer related services that it determines, with FCB approval, are feasible. Therefore, the FCB has a statutory role in the determination of whether a related service program is feasible for an association to offer. Historically, the FCB has conducted reviews of each related service, at least annually, at both the bank and association level. Additionally, existing § 618.8000(a)(5) requires that the bank board annually determine the financial feasibility of its related service programs.

As stated in the preceding discussion of proposed § 618.8020, the FCA believes the determination of feasibility of a proposed program should ultimately be the responsibility of the offering institution. Nonetheless, the funding bank does have a statutory responsibility. Therefore, the FCA proposes in § 618.8025 to require the funding bank to verify that the association performed the feasibility analysis pursuant to § 618.8020. It would permit the funding bank to prevent the offering of the related service only if it determines that the feasibility analysis is inadequate or that the analysis fails to indicate that the program can be feasibly provided by the association. Any conclusion by the bank that the feasibility analysis is incomplete or fails to demonstrate the program's feasibility must be fully supported and communicated to the association in writing within 60 days of its submission to the bank.

The FCA concludes that this approach creates the least amount of burden, maintains the funding bank's statutory role, supports the bank's ability to supervise its credit, and permits greater association autonomy. The FRS petitioners suggested making the bank's determination of feasibility automatic, in the absence of extraordinary circumstances, for those proposed services that the FCA has authorized. The FCA does not agree that either the bank's or association's determination of feasibility should be automatic. The FCA's determination of whether a particular service should be authorized is fundamentally different from the determination of whether an individual service program is feasible for a given association. Moreover, the FCA does not accept the premise that the funding bank could fulfill its statutory role by making an automatic assumption of feasibility for those services that the FCA has already authorized.

7. Section 618.8030—Out-of-territory Related Services

Proposed § 618.8030 would allow a System bank or association to offer a related service outside of its chartered lending territory. It would replace guidance provided in FCA Bookletter 366–OE, which implemented the FCA Board policy statement concerning the offering of out-of-territory related services (58 FR 36410, July 2, 1993). Presently, an institution is required to obtain the concurrence of all System banks or associations serving the territory before it can offer its related services. The other chief conditions are: (1) A common program requirement within a district (associated with existing related service regulations); and (2) a requirement that the service provided within the institution's territory remain as the primary component of its services.

The proposed regulation eliminates the common program feature in § 618.8000(b)(3) because the FCA recognizes that this feature reflects an out-of-date system structure. In addition, the PPC work group and FRS petition both requested that the FCA drop the common program requirement in favor of greater flexibility.

The requirement that related services provided within an institution's own territory remain the institution's primary service component is not part of the proposed regulation. The FCA concludes that as long as an institution is able to adequately serve the needs of eligible borrowers in its chartered territory, there should not be a limit on how much business it conducts out of its territory. The FCA agrees with a comment made by the PPC work group that services can have a positive effect on an institution's credit program by providing diversity and an additional income stream.

Under the proposed regulation, the requirement for consent before offering related services out-of-territory would be modified. In proposed § 618.8030(a), an institution would be required to obtain the concurrence of at least one institution chartered to service that outside territory. The FCA believes it is important to preserve the rights of all System institutions within their chartered territories. The fact that some territories overlap is irrelevant to the right of an institution to determine what services it wishes to provide in its own territory. Thus, the FCA believes that if a bank or association wishes to make a related service available to its customers, it can arrange with any other System institution to provide the service in its chartered territory without any other institution's consent. This outcome is no different from the current situation in which an institution can offer a service itself or it can contract with a non-System entity to offer the service; in either case, the institution is not required to obtain the consent of any other institution.

The proposed regulation also requires that for services provided out of its territory, the providing institution must meet all of the requirements of subparts A and B of part 618, including adopting a related services policy and determining feasibility. It should be noted that if the providing institution is expanding an existing program, a new feasibility analysis and bank verification would be needed. An institution that gives consent to another bank or association to provide a related service in its chartered territory need must meet the requirements of proposed § 618.8030, but need not comply with the other requirements of subparts A and B, unless the program consented to imposes on the consenting institution a financial obligation, in which case the consenting institution must comply with §§ 618.8015, 618.8020, and 618.8025.

Another aspect to the out-of-territory issue is whether an institution that initially concurs in another institution providing related service programs in its territory can later withdraw its approval. One example could be a situation in which an institution has approved a service in its territory because that service is not currently offered, but later that institution wishes to begin exclusively offering the same service. The FCA believes that by entering into a written agreement with specific terms, conditions, and timeframes, the consenting institution can best protect its interests. One example could be that the institutions enter into a formal contractual arrangement that provides for termination by either party with proper notice.

B. Subpart B—Member Insurance

1. Section 618.8040—Authorized Insurance Services, Debtor/Creditor Relationship

The PPC work group and the Insurance petition raised questions concerning the authority in section 4.29 of the Act for banks (excluding banks for cooperatives) and associations to provide to members and borrowers credit or term life and credit disability insurance appropriate to protect the loan commitment. When it enacted section 4.29 of the Act, Congress stated that for System institutions to "sell credit or term life, there must be a debtor-creditor relationship and the amount of insurance should be appropriate to protect but not exceed the total loan commitment to the member-borrower." [6] Therefore, current regulations require that a debtor-creditor relationship exist for the sale of credit or term life and credit disability insurance. Although the Insurance petition requested that this requirement be removed from the regulations, the FCA concludes that this is a statutory requirement, not only a regulatory requirement.

Questions have also arisen as to whether the debtor-creditor relationship must exist with the institution offering credit or term life or credit disability insurance. For example, in situations in which related services may be offered out-of-territory, a borrower may have a debtor-creditor relationship with the bank or association in the territory, but an out-of-territory association may be offering the insurance. The FCA interprets section 4.29 of the Act and its legislative history to mean that there must be a borrowing relationship with a System institution, but not necessarily with the institution offering the service. Therefore, as long as the recipient of credit or term life or credit disability insurance has a debtor-creditor relationship with a bank or association of the System, the insurance can be offered by any institution authorized to provide insurance to that recipient. Accordingly, in proposed § 618.8040(b)(1), the FCA would add a statement that the debtor-creditor relationship does not necessarily have to be with the offering institution.

Another question related to the debtor-creditor requirement was raised by the PPC work group. The issue involves situations in which a borrower relies upon a spouse's income for repayment of the loan and wishes to purchase credit or term life and disability insurance on the spouse, but the spouse is not a co-maker of the loan. The FCA considers it to be unlikely that a spouse who significantly contributes to the loan's repayment would not have signed the note. Nevertheless, because spouses may have contractual liability for the debt by operation of state law, the proposed regulation would permit the sale of credit insurance on a borrower's spouse. As with all other situations, the amount of insurance offered could not exceed the total amount of the loan commitment to the borrower.

[6] *See*, H.R. Rep. No. 1287, 96th Cong., 2nd Sess., 43 (1980).

The FCA's review of the legislative history on the enactment of section 4.29 of the Act indicates that a debtor-creditor relationship is not necessary for System institutions to provide other insurance necessary to protect the member's farm or aquatic unit, such as hail and multiple-peril crop insurance.[7] Accordingly, this restriction has been deleted in the proposed regulation. Purchasers of other insurance would, however, have to be either members or borrowers. Proposed § 618.8040(b)(2) would define members (for subpart B only) to include a stockholder or participation certificate holder who acquired stock or participation certificates to obtain a loan, for investment purposes, or to qualify for other services of the association or bank. Therefore, the reference in existing § 618.8030(b)(1) to eligibility for landlords of tenants and tenants of landlords having a debtor-creditor relationship would be removed as unnecessary. Such tenants or landlords would be eligible to receive hail or multiple-peril crop insurance upon becoming members of a bank or association. Similar to the debtor-creditor requirement in proposed § 618.8040(b)(1), the purchaser of other types of insurance does not have be to a borrower or member of the offering bank or association, but can be a borrower or member of any System bank or association.

2. Section 618.8040(b)(5)—Incentive Compensation for Sale of Insurance

Section 618.8040(b)(5) is proposed to be amended to clarify how incentive compensation for sale of insurance may be provided to employees. The existing regulation states that "Bank or association personnel shall not benefit, directly or indirectly, from insurance sales by receipt of commissions, gifts, or incentive awards." The proposed regulations would allow incentive compensation for sale of insurance with some limitations.

The prohibition of compensation for insurance sales was included in the existing regulation to prevent conflicts of interest between System employees and borrowers and to implement the requirement in section 4.29 of the Act that borrowers not be coerced into buying insurance from System institutions. The FCA believes that unrestricted compensation of loan officers or other employees, based on volume of insurance sales can lead to abusive, high-pressure sales practices. In addition, other Federal financial regulators agree and continue to place limitations on employee compensation derived from insurance sales. At the same time, however, the FCA recognizes that if sale of insurance is a part of an employee's regular job, incentive compensation should be allowed to some extent. Additionally, the FCA is aware that some institutions have instituted bonus pools that are shared by employees who may not be involved in selling insurance. The proposed regulation accommodates those arrangements as well.

The issue of employee compensation for insurance sales was raised in 1992 when it became known that some institutions had employee compensation programs that allowed direct compensation for insurance sales. On May 20, 1992, the FCA issued Bookletter 327–OE, which recognized that some System employees were compensated for insurance sales in one of two ways: (1) Incentive bonuses were directly tied to the insurance sales generated by each employee; or (2) incentive bonuses were tied in some way to the net income of the institution, part of which was derived from sales of insurance. The bookletter stated that compensation that is tied directly to insurance sales is not in compliance with current regulations. However, the FCA did not intend to apply that determination to the second type of plan where compensation is tied to the net income of an institution. Since that bookletter was issued, the FCA has received a number of inquiries from System institutions requesting clarification on whether specific compensation plans would be considered acceptable. In addition, the PPC work group requested that the FCA consider the issue of compensation for sale of insurance as part of its project to amend § 618.8000.

Proposed § 618.8040(b)(6) allows for incentive compensation for sale of insurance in line with what is currently allowed in the commercial banking industry. In any single year, the amount of incentive compensation attributable to insurance sales cannot exceed 5 percent of the recipient's annual base salary. This limitation applies to individual incentive plans, as well as bonus pools or any other type of plan. If an employee participates in both an individual plan and some form of bonus pool, the amount of incentive compensation attributable to sale of insurance received from each plan must be aggregated for purposes of determining whether it meets the 5-percent limitation.

It should be noted that insurance is the only related service for which there is any restriction on employee incentive compensation. At this time, the FCA has concluded that there is no need for similar limitations on other related services because those services are not as directly linked to the loan-making process. Furthermore, customers may be able to more readily evaluate the benefit of other related services.

3. Section 618.8040—Other Regulatory Changes

The requirement in § 618.8040(b)(10) that the bank review annually the individual association member insurance services would be eliminated. This provision was originally included to be consistent with other related service requirements in subpart A, which are now also to be removed. The proposed rule removes the annual review requirement from both subparts A and B. As previously discussed, the FCA believes the review function is most appropriately handled at the level of the institution offering the program. The FCA expects that each institution offering insurance will review its program periodically to determine that it is operating in a safe and sound manner and that it remains consistent with the institution's business plan and long-term strategic goals.

In order to reflect the creation of Agricultural Credit Banks, the FCA clarifies that under proposed § 618.8040(a) ACBs may provide insurance to the persons eligible to borrow as identified in titles I and II of the Act and corresponding regulations. This would not be a change from the existing regulations.

Technical changes were also made to parts 611 and 620 in order to conform with the proposed regulatory changes in part 618, subparts A and B.

List of Subjects

12 CFR Part 611

Agriculture, Banks, Banking, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, Banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 620

Accounting, Agriculture, Banks, Banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 618, and 620 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

[7] *See*, H.R. Rep. No. 1287, 96th Cong., 2nd Sess., 44 (1980).

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

§ 611.1125 [Amended]

2. Section 611.1125 is amended by removing the word "financially" in paragraph (b)(2).

PART 618—GENERAL PROVISIONS

3. The authority citation for part 618 is revised to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

§ 618.8030 [Redesignated as § 618.8040]

4. In subpart B, § 618.8030 is redesignated as new § 618.8040.

5. Subpart A is revised to read as follows:

Subpart A—Related Services

Sec.

618.8000 Definitions.
618.8005 Eligibility.
618.8010 Related services authorization process.
618.8015 Policy guidelines.
618.8020 Feasibility requirements.
618.8025 Feasibility reviews.
618.8030 Out-of-territory related services.

Subpart A—Related Services

§ 618.8000 Definitions.

For the purposes of this subpart, the following definitions shall apply:

(a) *Program* means the method or procedures used to deliver a related service. This distinguishes the particulars of how a related service will be provided from the type of activity or concept.

(b) *Related service* means any service or activity provided by a System bank or association that pertains to the recipient's on-farm, aquatic, or cooperative operations, including control of related financial matters. The term "related service" includes, but is not limited to, technical assistance, financial assistance, financially related services and insurance, but does not include lending or leasing activities.

(c) *System banks and associations* means Farm Credit Banks, agricultural credit banks, banks for cooperatives, agricultural credit associations, production credit associations, Federal land bank associations and Federal land credit associations.

§ 618.8005 Eligibility.

(a) Farm Credit Banks and associations may offer related services to persons eligible to borrow as defined in §§ 613.3010, 613.3020(a)(1), (a)(2), (b), and 613.3045 of this chapter.

(b) Banks for cooperatives may offer related services to entities eligible to borrow as defined in §§ 613.3110 and 613.3120 of this chapter.

(c) Agricultural credit banks may offer related services appropriate to on-farm and aquatic operations to the persons eligible to borrow specified in paragraph (a) of this section and may offer related services appropriate to cooperative operations of entities eligible to borrow as specified in paragraph (b) of this section.

(d) System banks and associations may provide related services to recipients that do not otherwise meet the requirements of paragraphs (a), (b), and (c) of this section in connection with loan applications, loan servicing, and other transactions between these recipients and persons eligible to borrow as defined in paragraphs (a), (b), or (c) of this section, as long as the service provided is a part of or pertains to the transaction between the parties. Such services include, but are not limited to, fee appraisals of agricultural assets performed for the Farmers Home Administration, commercial banks and other lenders.

§ 618.8010 Related services authorization process.

(a) *Authorities.* (1) The Farm Credit Administration (FCA) shall authorize related services that meet the criteria specified in this regulation. System banks and associations may only offer related services that are authorized by the FCA.

(b) *New service proposals.* (1) A System bank or association that wishes to offer a related service that the FCA has not previously authorized must submit to the FCA, in writing, a proposal that includes a description of the service, how it meets the regulatory definition of "related services" in § 618.8000(b), and the risk analysis cited in § 618.8020(b)(3). The FCA will evaluate the proposed service based on the information submitted, and may also consider whether there are extenuating circumstances or other compelling reasons that justify the proposed service or support a determination that the service is not authorized. This evaluation will focus primarily on Systemwide issues rather than on institution or program-specific factors.

(2) When authorizing a proposed related service, at its discretion, the FCA may impose special conditions or limitations on any program to offer a related service.

(3) At its discretion the FCA may, during its evaluation of a proposed related service, publish the proposed related service in the **Federal Register** for public comment.

(4) Within 60 days of the FCA receiving a completed proposal, including any additional information the FCA may require, the FCA will act on the request. The FCA shall approve the request, deny the request, or notify the requesting institution that the service shall be published for public comment in the **Federal Register**. For good cause and prior to the expiration of the 60 days, the FCA may extend this period for an additional 60 days.

(5) The FCA shall notify all System banks and associations by bookletter or other means each time it determines whether a proposed related service is or is not authorized.

(c) *Previously authorized services.* (1) For related services that have been authorized by the FCA, any System bank or association may develop a program and subsequently offer the related service to eligible recipients, subject to any special conditions or institutional limits placed by the FCA. These programs will be subject to review and evaluation during the examination process.

(2) The FCA shall make available to all Farm Credit institutions a list of such related services ("related services list" or "list") and will update it in accordance with paragraph (b)(5) of this section. The list will contain the following:

(i) A description of each related service;

(ii) Identification of any special conditions on how the related service may be offered; and

(iii) The types of institutions authorized to offer each type of related service.

(3) Within 30 days of implementing a related service program already on the list, the System bank or association must notify the FCA Office of Examination field office responsible for examining that institution.

§ 618.8015 Policy guidelines.

(a) The board of directors of each institution providing related services shall adopt a policy addressing related

services. The policy should include clearly stated purposes, objectives, and operating parameters for offering related services and a requirement that each service offered be consistent with the institution's business plan and long-term strategic goals. Such policy should also be subject to review under the institution's internal control policy.

(b) All related services must be offered to recipients on an optional basis. If the institution requires a related service as a condition to borrow, it must inform the recipient that the related service can be obtained from the institution or from any other person or entity offering the same or similar related services.

(c) All fees for related services shall be separately identified from loan interest charges and disclosed to the recipient of the service.

§ 618.8020 Feasibility requirements.

For every related service program an institution provides, it must document program feasibility. The feasibility analysis shall include the following:

(a) Support for the determination that the related service is authorized; and

(b) An overall cost-benefit analysis of offering the program that demonstrates its feasibility, taking into consideration the following items:

(1) An analysis of how the program relates to or promotes the institution's business plan and strategic goals;

(2) An analysis of the expected financial returns of the program which, at a minimum, must include an evaluation of market, pricing, competition issues, and whether the program would be expected to make a profit or if its purpose is to be combined with a broader objective aimed at contributing to the overall financial health of the institution or the individual borrower; and

(3) An analysis of the risk in the program, including:

(i) An evaluation of the operational costs and risks involved in offering the program, such as management and personnel requirements, training requirements, and capital outlays;

(ii) An evaluation of the financial liability that may be incurred as a result of offering the program and any insurance or other measures that are necessary to minimize these risks; and

(iii) An evaluation of the conflicts of interest, whether real or perceived, that may arise as a result of offering the program and any steps that are necessary to reduce these conflicts.

§ 618.8025 Feasibility reviews.

Prior to an association offering a related service program for the first time, the board of directors of the funding bank must verify that the association has performed a feasibility analysis pursuant to § 618.8020. The bank's review is limited to a determination that the feasibility analysis is complete and that the analysis establishes that it is feasible for the association to provide the program. Any conclusion by the bank that the feasibility analysis is incomplete or fails to demonstrate the program's feasibility must be fully supported and communicated to the association in writing within 60 days of its submission to the bank.

§ 618.8030 Out-of-territory related services.

System banks and associations may offer related services outside their chartered territories subject to the following condition. Any System bank or association desiring to offer related services outside its chartered territory must obtain the consent of at least one institution chartered to serve the territory in which the related service is to be provided. Such consent shall be in the form of a written agreement with specific terms and conditions, including timeframes.

(a) The providing institution must fulfill all requirements of subparts A and B of this part 618.

(b) An institution that consents to another bank or association providing a related service in its chartered territory must meet the requirements of this section, but need not comply with the other requirements of subparts A and B of this part 618, unless the program consented to imposes a financial obligation on the consenting institution. In such cases, the consenting institution must comply with §§ 618.8015, 618.8020 and 618.8025.

6. Newly designated § 618.8040 is amended by revising paragraph (b)(1); by removing paragraph (b)(10); by redesignating existing paragraphs (b)(2) through (b)(9) as paragraphs (b)(3) through (b)(10); by adding a new paragraph (b)(2); by removing the reference "§ 618.8030(b)(3)(i)" and adding in its place, the reference "§ 618.8040(b)(4)(i)" in newly designated paragraph (b)(3); and by revising newly designated (b)(6) to read as follows:

Subpart B—Member Insurance

§ 618.8040 Authorized insurance services.

* * * * *

(b) Bank and association board policies governing the provision of member insurance programs shall be established within the following general guidelines:

(1) A System bank or association may provide credit or term-life or credit-disability insurance only to persons who have a loan or lease with a System bank or association. The loan or lease does not necessarily have to be with the institution providing the insurance. Term-life insurance coverage may continue after the loan has been repaid or the lease terminated, provided the member can reasonably be expected to borrow again within 2 years, and provided the continuation of insurance is not contrary to state law.

(2) A debtor-creditor relationship is not required for the sale of other insurance specified in paragraph (a) of this section, as long as purchasers are members or borrowers of a System bank or association. For the purposes of this section, "member" means a stockholder or participation certificate holder who acquired stock or participation certificates to obtain a loan, for investment purposes, or to qualify for other services of the association or bank.

* * * * *

(6) Bank or association personnel shall not benefit from insurance sales by receipt of commissions or gifts from underwriting insurance companies. However, an employee may participate in an institution's incentive plan under which incentive compensation is provided for the sale of insurance. In any single year, such compensation shall not exceed an amount equivalent to more than 5 percent of the recipient's annual base salary

* * * * *

PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa-11); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart B—Annual Report to Shareholders

§ 620.5 [Amended]

2. Section 620.5 is amended by removing the word "financial" and adding in its place, the word "related" each place it appears in paragraph (a)(3).

Dated: October 26, 1994.

Floyd Fithian,

Acting Secretary, Farm Credit Administration Board.

APPENDIX A TO THE PREAMBLE—SAMPLE RELATED SERVICES LIST [1]

Authorized institutions	Type of service	Description	Special Conditions
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Estate Planning Service.	Providing information and assistance concerning development of estate plans. Does not include providing legal counsel or advice or executing the estate planning documents.	
ACB, FCB, BC, ACA, PCA, FLBA, FLCA.	Fee Appraisal Service.	Providing real and personal property appraisals and evaluations. (Note: appraisals done in conjunction with making or servicing System loans are not considered related services for the purpose of this regulation.)	
ACB, FCB, BC, ACA, PCA, FLBA, FLCA.	Recordkeeping Service (including AgrifaxR).	Providing recordkeeping systems tailored to recipients' needs.	
ACB, FCB, BC, ACA, PCA, FLBA, FLCA.	Tax Planning and Preparation.	Preparing tax returns and assisting recipients in understanding tax implications of alternative management decisions and strategies.	
ACB (Title 1 and II), FCB, BC, ACA, PCA, FLBA, FLCA.	Farm Business Consulting.	Assisting with business planning for on-farm or aquatic operations. Includes such activities as assisting individuals in defining business goals, identifying management problems, and formulating or analyzing alternative strategies for achieving goals. Institution personnel may not be involved in making management decisions.	Institutions must have procedures in place to ensure conflicts of interest do not occur between the credit and business consulting function.
ACB (Title III), BC	Cooperative Business Consulting.	Providing consulting services to cooperatives or other eligible recipients to assist management and directors in making business decisions. May include educational seminars, development of computer services, business analysis, feasibility studies, and activity coordination (e.g., coordination of activities on mergers or formation of joint ventures). Institution personnel may not be involved in making management decisions.	Institutions must have procedures in place to ensure conflicts of interest do not occur between the credit and business consulting functions
ACB (Title III), BC	Foreign Currency Exchange.	Providing foreign currency exchange services necessary to individual transactions that may be financed under Title III, section 3.7(b) of the Farm Credit Act of 1971, as amended.	Subject to the criteria under 12 CFR 614.4900.
ACB (Title III), BC	Financial Risk Management for Customers.	Providing risk management products that enable customers to hedge interest rate risk inherent in their balance sheets. Limited to the following derivative products: • Interest rate swaps, caps, collars and floors; • Forward rate agreements; and • Exchange-traded and over-the-counter interest rate options on eligible interest rate futures contracts. (Products may be offered as part of loan packages or as stand-alone hedging tools.)	(1) Interest rate swaps should be included with the borrower's total debt when calculating lending limits under 12 CFR part 614, subpart J. For swaps where the bank keeps an offsetting position, it must include the credit risk of the swaps with the borrower's total debt when calculating lending limits. Credit limits for each counterparty should be determined by reviewing the potential magnitude of adverse payment increases over the life of the swap. (2) Related services programs are subject to annual audits by a CPA.
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Credit Life Insurance or Mortgage Life Insurance.	Coverage that pays off an outstanding loan or mortgage in the event of the policy holder's death.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Group Term Life Insurance.	One-year group life insurance coverage that is renewable at the end of each year.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Credit Disability and Accident Insurance or Mortgage Disability Insurance.	Insurance that provides for loan or mortgage payments, or some degree of income protection if the insured is disabled.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Hospital Income Insurance.	Insurance that provides a specified amount of income while the insured is hospitalized. A form of credit disability insurance, and subject to the debtor-creditor requirement.	

APPENDIX A TO THE PREAMBLE—SAMPLE RELATED SERVICES LIST [1]—Continued

Authorized institutions	Type of service	Description	Special Conditions
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Multiple-peril Crop Insurance (including insurance provided by the Federal Crop Insurance Corporation).	Insurance covering hazards incident to the growing and storage of crops.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Crop Hail Insurance.	Insurance providing protection against damage or loss of crops due to hail or certain other named perils.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Hay (or Other Crop) Fire Insurance.	Insurance that covers loss of hay or other crops due to fire.	
ACB (Title I and II), FCB, ACA, PCA, FLBA, FLCA.	Title Insurance	Insurance against loss or damage resulting from defects or failure of title or from the enforcement of liens existing against title at the time of the insurance.	

[1] The sample list is included as an attachment to this **Federal Register** document for informational purposes only. The attachment will not become part of the final regulation.

[FR Doc. 94–26839 Filed 10–28–94; 8:45 am]
BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–46–AD]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 83–18–03, which currently requires repetitively inspecting the tailplane outboard hinge assembly for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate, or in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require eventually modifying the tailplane outboard hinge arm and tailplane hinge plate as terminating action for the currently required repetitive inspections. The actions specified in the proposed AD are intended to prevent tailplane failure caused by cracks in either the outboard hinge arm or the hinge plate.

DATES: Comments must be received on or before January 4, 1995.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K1Y5. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220; facsimile (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes 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 No. 91–CE–46–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate, or in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA recently conducted a review of existing AD's that apply to de Havilland DHC–6 series airplanes.

Assisting the FAA in this review were (1) Transport Canada, which is the airworthiness authority for Canada; (2) de Havilland, Inc.; (3) the Regional Airlines Association (RAA); and (4) several U.S. and foreign operators of the affected airplanes.

From this review, the FAA has identified AD 83–18–03, Amendment 39–1658, as one that should be superseded with a new AD that would eliminate short-interval and critical repetitive inspections. AD 83–18–03 currently requires repetitively inspecting the tailplane outboard hinge assembly for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked part.

De Havilland, Inc. (formerly Boeing of Canada, Ltd.) has issued Service Bulletin (SB) No. 6/421, Revision B, dated November 11, 1983. This service bulletin specifies procedures for replacing the tailplane outboard hinge arm and tailplane hinge plate with parts of improved design. This replacement is known as Modification No. 6/1799.

As a result of the previously discussed AD review, Transport Canada considers Modification 6/1799 mandatory and has issued Transport Canada AD CF–83–11 in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada 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, Transport Canada has kept the FAA informed of the situation described above.

Based on its aging commuter-class aircraft policy and after reviewing all available information including that received from Transport Canada, the FAA has determined that AD action should be taken to eventually eliminate the repetitive short-interval inspections required by AD 83–18–03, and to prevent tailplane failure caused by cracks in either the outboard hinge arm or the hinge plate.

Since an unsafe condition has been identified that is likely to exist or develop in other de Havilland DHC–6 series airplanes of the same type design, the proposed AD would supersede AD 83–18–03 with a new AD that would (1) initially retain the requirement of repetitively inspecting the tailplane outboard hinge assembly for cracks, and replacing any cracked part; and (2) eventually require modifying the tailplane outboard hinge arm and tailplane hinge plate with parts of improved design (Modification No. 1799) as terminating action for the currently required repetitive inspections. The proposed actions would be accomplished in accordance with de Havilland SB No. 6/421, Revision B, dated November 11, 1983.

The FAA estimates that 141 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 35 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $4,400 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $916,500. This figure is based on the assumption that no affected airplane owner/operator has accomplished the proposed action.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 141 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 40 percent are operated in scheduled passenger service. A significant number of the remaining 60 percent are operated in other forms of air transportation such as air cargo and air taxi.

The proposed AD allows 2,400 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 12 to 24 calendar months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 12 to 24 years before the proposed modification would be mandatory.

The following paragraphs present cost scenarios for airplanes where no cracks are found and where cracks are found, utilizing an average remaining airplane life of 15 years and an average annual utilization rate of 1,600 hours TIS. A copy of the full Cost Analysis and Regulatory Flexibility Determination for the proposed action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

- No Cracks Scenario: Under the provisions of AD 83–18–03, an owner/operator of a de Havilland DHC–6 series airplane in scheduled service who operates an average of 1,600 hours TIS annually would inspect every 1,200 hours TIS. This would amount to a remaining airplane life (estimated 15 years) amount of $4,769; this figure is based on the assumption that no cracks are found during the inspections. The proposed AD would incur the same 1,200-hour TIS inspection until 2,400 hours TIS where the operator would have to replace the tailplane outboard hinge arm assembly (eliminating the need for further repetitive inspections), which would result in a present value cost of $6,574. The incremental cost of the proposed AD for such an airplane would be $1,805 ($6,574 − $4,769) or $1,309 annualized over the 1.5 years it would take to accumulate 2,400 hours TIS. An owner of a general aviation airplane who operates 800 hours TIS annually without finding any cracks during the 1,200-hour TIS inspections would incur a present value incremental cost of $3,843 ($5,990 − $2,507). This would amount to a per year amount of $1,327 over the three years it would take to accumulate 2,400 hours TIS.
- Cracks Found Scenario: Under the provisions of AD 83–18–03, an owner/operator of a de Havilland DHC–6 series airplane who found cracks during an inspection would have to repair the crack prior to further flight and resume inspections every 1,200 hours TIS. The proposed AD would require immediate replacement of the arm assembly if cracks were found as terminating action for the repetitive inspection requirement. The repair cost is the same as the replacement except that the repair does not terminate the inspection requirement. For this reason, the proposed AD would result in present-day cost savings, which would continue to grow over the remaining life of the airplane since repetitive inspections would not be required. Using the assumed 15-year remaining life, the cost savings would be $4,409 for scheduled service airplane owners/operators and $2,149 for general aviation airplane owners/operators.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a "significant economic impact on a substantial number of small entities," and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria

and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A "substantial number" is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities judged to be substantial by the rulemaking official. A "significant economic impact" is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $4,850 for unscheduled operators.

Of the 141 U.S.-registered airplanes affected by the proposed AD, 6 airplanes are owned by the federal government. Of the other 135, one business owns 26 airplanes, one business owns 9 airplanes, one business owns 8 airplanes, 1 business owns 7 airplanes, one business owns 4 airplanes, two businesses own 3 airplanes each, thirteen business own 2 airplanes each, and forty-nine businesses each own 1 airplane.

Because the FAA has no readily available means of obtaining data on sizes of these entities, the economic analysis for the proposed AD utilizes the worst case scenario using the lower annualized cost threshold of $4,850 for operators in unscheduled service instead of $69,000 for operators in scheduled service. With this in mind and based on the above ownership distribution, the 64 entities owning 3 or fewer airplanes would not experience a "significant economic impact" as defined by FAA Order 2100.14A. Since the remaining five entities do not constitute a "substantial number" as defined in the Order, the proposed AD would not have a "significant economic impact on a substantial number of small entities."

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 action (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) 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 has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 83–18–03, Amendment 39–4719, and adding a new AD to read as follows:

De Havilland: Docket No. 91–CE–46–AD. Supersedes AD 83–18–03, Amendment 39–4719.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200 and DHC–300 airplanes (serial numbers 1 to 810), certificated in any category, that have not incorporated Modification 6/1799 in accordance with the ACCOMPLISHMENT INSTRUCTIONS, *Replacement*, section of de Havilland Service Bulletin (SB) No. 6/421, Revision B, dated November 11, 1983.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent tailplane failure caused by cracks in either the outboard hinge arm or the hinge plate, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD or within the next 1,200 hours TIS after the last inspection accomplished in accordance with superseded AD 83–18–03, Amendment 39–4719, whichever occurs later, inspect the tailplane outboard hinge arm assembly for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS, *Inspection*, section of de Havilland SB No. 6/421, Revision B, dated November 11, 1983.

(1) If cracks are not found, reinspect every 1,200 hours TIS until Modification 6/1799 (tailplane outboard hinge arm and tailplane hinge plate) is installed as required by paragraph (b) of this AD.

(2) If cracks are found, prior to further flight, replace the tailplane outboard hinge arm assembly with Modification 6/1799 in accordance with the ACCOMPLISHMENT INSTRUCTIONS, *Replacement*, section of de Havilland SB No. 6/421, Revision B, dated November 11, 1983.

(b) Within 2,400 hours TIS after the effective date of this AD, replace the tailplane outboard hinge arm assembly with Modification 6/1799 in accordance with the ACCOMPLISHMENT INSTRUCTIONS, *Replacement*, section of de Havilland SB No. 6/421, Revision B, dated November 11, 1983, unless already accomplished in accordance with paragraph (a)(2) of this AD.

(c) Compliance with paragraph (a)(2) or (b) of this AD is considered terminating action for the inspection requirements of this AD.

(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.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 25, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26876 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 91–CE–22–AD]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 81–10–11, which currently requires repetitively inspecting the elevator root ribs for cracks on de Havilland DHC–6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require modifying the elevator root rib as terminating action for the repetitive inspections that are currently required by AD 81–10–11. The actions specified in the proposed AD are intended to prevent failure of the elevator root rib, which could result in loss of control of the airplane.

DATES: Comments must be received on or before January 4, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220; facsimile (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes 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 No. 91–CE–22–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA recently conducted a review of existing AD's that apply to de Havilland DHC–6 series airplanes. Assisting the FAA in this review were (1) de Havilland; (2) the Regional Airlines Association (RAA); and (3) several operators of the affected airplanes.

From this review, the FAA has identified AD 81–10- 11, Amendment 39–4112, as one that should be superseded with a new AD that would require a modification that could eliminate the need for short-interval and critical repetitive inspections. AD 81–10–11 currently requires repetitively inspecting the elevator root rib for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked part.

De Havilland has issued Service Bulletin (SB) No. 6/399, Revision E, dated May 25, 1984, which specifies procedures for (1) inspecting the elevator root rib; and (2) modifying the elevator root rib (Modification No. 6/1769). Modification No. 6/1769 consists of pulling back the elevator skins, removing the torque tube assembly, replacing the root rib assembly and doubler, replacing the second outboard nose rib, installing a new intercostal, and reinstalling the torque tube assembly and new skin.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 81–10–11, and to prevent failure of the elevator root rib, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other de Havilland DHC–6 series airplanes of the same type design that do not have Modification No. 6/1769 incorporated, the proposed AD would supersede AD 81–10–11 with a new AD that would (1) retain the current requirement of inspecting the elevator root rib for cracks, and replacing any cracked part; and (2) require modifying the elevator root rib (Modification 6/1769) as terminating action for the repetitive inspections. The proposed actions would be accomplished in accordance with de Havilland SB No. 6/399, Revision E, dated May 25, 1984.

The FAA estimates that 169 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 54 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $4,200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S.

operators is estimated to be $1,257,360. This figure is based upon the assumption that none of the affected airplane owners/operators have incorporated Modification 6/1769.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 169 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 50 percent are operated in scheduled passenger service. A significant number of the remaining 50 percent are operated in other forms of air transportation such as air cargo and air taxi.

The following paragraphs present cost scenarios for airplanes where no cracks were found and where cracks were found, utilizing an average remaining airplane life of 15 years and an average annual utilization rate of 1,600 hours TIS. De Havilland Models DHC–6–100 and DHC–6–200 airplanes have probably already accumulated 15,000 hours TIS; therefore, those airplanes would have 100 hours TIS after the effective date of the AD to incorporate Modification 6/1769. Some Model DHC–6–300 airplanes have not yet accumulated 15,000 hours TIS. This analysis is based upon the assumption that these airplanes yet to accumulate 15,000 hours TIS have 10,000 hours TIS if operated in scheduled service and 5,000 hours TIS if operated in general aviation. A copy of the full Cost Analysis and Regulatory Flexibility Determination for the proposed action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

- No Cracks Scenario for Models DHC–6–100 and DHC–6–200: These airplanes would be inspected at 50 hours TIS after the effective date and modified within 100 hours TIS after the effective date. The incremental present value cost of the proposed AD over that required by AD 81–10–11 is $5,919 for an airplane utilized in sheduled service, and $6,642 for an airplane utilized in general aviation.
- No Cracks Scenario for Model DHC–6–300 Airplanes: These airplanes would be inspected at 50 hours TIS after the effective date and thereafter at 600-hour TIS intervals until the elevator root rib is replaced upon the accumulation of 15,000 hours TIS. The incremental present value cost of the proposed AD over that required by AD 81–10–11 is $4,962 for an airplane utilized in sheduled service, and $3,099 for an airplane utilized in general aviation.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a "significant economic impact on a substantial number of small entities," and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A "substantial number" is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities judged to be substantial by the rulemaking official. A "significant economic impact" is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $4,850 for unscheduled operators.

Of the 169 U.S.-registered airplanes affected by the proposed AD, 6 airplanes are owned by the federal government. Of the other 163, one business owns 26 airplanes, two businesses own 9 airplanes each, one business owns 8 airplanes, one business owns 7 airplanes, one business owns 5 airplanes, four businesses own 3 airplanes each, sixteen businesses own 2 airplanes each, and fifty-five businesses own 1 airplane each.

Because the FAA has no readily available means of obtaining data on the sizes of these entities, the economic analysis for the proposed AD utilizes the worst case scenario using the lower annualized cost threshold of $4,850 for operators in unscheduled service instead of $69,000 for operators in scheduled service. With this in mind and based on the above ownership distribution, the proposed AD could have a significant impact on a substantial number of small entities. Because of this, the FAA conducted a regulatory flexibility analysis. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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 action (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) if promulgated, may have a significant economic impact on a substantial number of small entities. The FAA has conducted an Initial Regulatory Flexibility Determination and Analysis and has considered alternatives to this proposal that could minimize the impact on small entities. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**. After careful consideration, the FAA has determined that the proposed action is the best course to achieve the safety objective of returning the airplane to its original certification level of safety.

Alternative actions and views are solicited from interested persons and will be considered by the FAA in the development of the final rule.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 81–10–11, Amendment

39–4112, and adding a new AD to read as follows:

De Havilland: Docket No. 91–CE–22–AD. Supersedes AD 81–10–11, Amendment 39–4112.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (all serial numbers), certificated in any category, that do not have Modification No. 6/1769 incorporated.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent failure of the elevator root rib, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 81–10–11), inspect the elevator root rib, part number (P/N) C6TE1022, for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland Service Bulletin (SB) No. 6/399, Revision E, dated May 25, 1984.

(1) If any crack is found, prior to further flight, accomplish one of the following:

(i) Replace the cracked part with an airworthy part and reinspect thereafter at intervals not to exceed 600 hours TIS until the modification required in paragraph (b) of this AD is incorporated; or

(ii) Incorporate Modification 6/1769 in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/399, Revision E, dated May 25, 1984.

Note 1: Modification 6/1769 consists of pulling back the elevator skins, removing the torque tube assembly, replacing the root rib assembly and doubler, replacing the second outboard nose rib, installing a new intercostal, and reinstalling the torque tube assembly and new skin.

(2) If no cracks are found, reinspect thereafter at intervals not to exceed 600 hours TIS until the modification required in paragraph (b) of this AD is incorporated.

(b) Upon the accumulation of 15,000 hours TIS or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished in accordance with paragraph (a)(1)(ii) of this AD, incorporate Modification 6/1769 in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/399, Revision E, dated May 25, 1984.

(c) Incorporating Modification 6/1769 as specified in paragraphs (a)(1)(ii) and (b) of this AD is considered terminating action for the inspection requirement of this AD.

(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.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 81–10–11, Amendment 39–4112.

Issued in Kansas City, Missouri, on October 25, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26878 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 91–CE–21–AD]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 73–05–03, which currently requires repetitively inspecting the rear spar cap for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require modifying the wing rear spar support as terminating action for the currently required repetitive inspections. The actions specified in the proposed AD are intended to prevent cracking of the top flange of the wing rear spar attachment caps, which could result in loss of control of the airplane.

DATES: Comments must be received on or before January 4, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220; facsimile (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes 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 No. 91–CE–21–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries

an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA recently conducted a review of existing AD's that apply to de Havilland DHC–6 series airplanes. Assisting the FAA in this review were (1) de Havilland; (2) the Regional Airlines Association (RAA); and (3) several operators of the affected airplanes.

From this review, the FAA has identified AD 73–05–03, Amendment 39–1658, as one that should be superseded with a new AD that would eliminate short-interval and critical repetitive inspections. AD 73–05–03 currently requires repetitively inspecting the wing rear spar cap for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked part.

De Havilland, Inc. (formerly Boeing of Canada, Ltd.) has issued Service Bulletin (SB) No. 6/295, Revision D, dated December 20, 1991. This service bulletin specifies procedures for installing wing rear spar attachment caps that are manufactured from a material having improved stress corrosion resistant properties. This installation is known as Modification 6/1301.

As a result of the previously discussed AD review, Transport Canada considers Modification 6/1301 mandatory and has issued Transport Canada AD CF–73–03R1 in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 73–05–03, Amendment 39–1658, and to prevent cracking of the top flange of the wing rear spar attachment caps, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other de Havilland DHC–6 series airplanes of the same type design that do not have Modification No. 6/1301 incorporated, the proposed AD would supersede AD 73–05–03 with a new AD that would (1) initially retain the requirement of repetitively inspecting the wing rear spar cap for cracks and replacing any cracked part; and (2) eventually require installing wing rear spar attachment caps that are manufactured from a material having improved stress corrosion resistant properties (Modification 6/1301) as terminating action for the repetitive inspections. The proposed actions would be accomplished in accordance with de Havilland SB No. 6/295, Revision D, dated December 20, 1991.

The FAA estimates that 82 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 22 workhours per airplane to accomplish the proposed modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $6,350 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $629,432. This figure is based upon the assumption that none of the affected airplane owners/operators have incorporated Modification 6/1301.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 82 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 45 percent are operated in scheduled passenger service. A significant number of the remaining 55 percent are operated in other forms of air transportation such as air cargo and air taxi.

The following paragraphs present cost scenarios for airplanes where no cracks were found and where certain category cracks were found, utilizing an average remaining airplane life of 15 years and an average annual utilization rate of 1,600 hours TIS. A copy of the full Cost Analysis and Regulatory Flexibility Determination for the proposed action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

- No Cracks Scenario: Under the provisions of AD 73–05–03, an owner/operator of an affected de Havilland DHC–6 series airplane in scheduled service who operates an average of 1,600 hours TIS annually would inspect every 26 weeks. This would amount to a remaining airplane life (estimated 15 years) cost of $14,058; this figure is based on the assumption that no cracks are found during the inspections. The proposed AD would incur the inspection at one 1,200-hour TIS interval and then, at 2,400 hours TIS, the operator would have to replace the top flange of the wing spar attachment caps (eliminating the need for further repetitive inspections). This would result in a present value cost of $8,331, which would be a present value cost savings of $5,727 or $4,154 annualized over the 1.5 years it would take to accumulate 2,400 hours TIS. An owner of a general aviation airplane who operates 800 hours TIS annually without finding any cracks during the 1,200-hour TIS inspection would incur a present value cost savings of $6,430. This would amount to a per year savings of $2,450 over the 1.5 years it would take to accumulate 2,400 hours TIS.
- Category I cracks found scenario: These are spanwise cracks that are inboard of the third rivet, or spanwise cracks that exceed 50 inches, or any chordwise cracks: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to immediately repair the cracked part and repetitively inspect every 26 weeks. The proposed AD would require immediate replacement as terminating action for the repetitive inspections, which would result in present value compliance costs of $8,355. The present value cost savings for this scenario would be $6,300 for airplanes in scheduled service and $6,295 per general aviation airplane.
- Category II cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and within the limits of paragraph (b) of the service bulletin: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to repetitively inspect every 13 weeks. This would result in present value compliance costs of $27,625. The proposed AD would require repetitive inspections every 600 hours TIS until replacement of the top flange of the wing rear spar attachment caps at 2,400

hours TIS as terminating action for the repetitive inspections. This would result in present value compliance costs of $9,700. Immediate replacement of the top flange would be more economical; present value costs would be $8,355. The present value cost savings for this scenario would be $19,272 per airplane in scheduled service and $19,269 per general aviation airplane.

• Category III cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and within the limits of paragraph (c) of the service bulletin: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to repetitively inspect every 2 weeks. This would result in present value compliance costs of $175,000. The proposed AD would require repetitive inspections every 100 hours TIS until replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS as terminating action for the repetitive inspections. This would result in present value compliance costs of $13,965. Immediate replacement of the top flange would be more economical; present value costs would be $8,355. The present value cost savings for this scenario would be $166,075 per airplane in scheduled service and $166,784 per general aviation airplane.

• Category IV cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and exceed the limits of paragraph (b) or (c) of the service bulletin. Also included are cracks in the splice plates of the vertical and horizontal legs of the rear spar or elongated rivet holes: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to immediately repair any crack and then repetitively inspect every 26 weeks. This would result in present value costs of $14,500. The proposed AD would require immediate crack repair, an inspection at 1,200 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS as terminating action for the repetitive inspections. This would result in present value compliance costs of $8,929. Immediate replacement of the top flange would be more economical; present value costs would be $8,355. The present value cost savings for this scenario would be $6,040 per airplane in scheduled service and $6,430 per general aviation airplane.

• Category V cracks found scenario: These are spanwise cracks that are between the third and tenth rivet: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to immediately repair any crack, repetitively inspect every 2 weeks, replace the top flange of the wing rear spar attachment caps, and repetitively inspect every 26 weeks. This would result in present value compliance costs of about $30,000. The proposed AD would require immediate crack repair, repetitive inspections every 50 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS as terminating action for the repetitive inspections. This would result in present value compliance costs of $38,988. Immediate replacement of the top flange would be more economical; present value costs would be $8,355. The present value cost savings for this scenario would be $19,356 per airplane in scheduled service and $26,367 per general aviation airplane.

• Category VI cracks found scenario: These are spanwise cracks that have a total length exceeding 30 inches but not exceeding 50 inches: Under the provisions of AD 73–05–03, an owner/operator who found cracks under this scenario would have to immediately repair any crack, replace the top flange of the wing rear spar attachment caps at 26 weeks, and repetitively inspect thereafter every 26 weeks. This results in present value compliance costs of about $21,200. The proposed AD would require immediate crack repair, repetitive inspections every 600 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS as terminating action for the repetitive inspections. This would result in present value compliance costs of $10,289. Immediate replacement of the top flange would be more economical; present value costs would be $8,355. The present value cost savings for this scenario would be $12,707 per airplane in scheduled service and $13,028 per general aviation airplane.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a "significant economic impact on a substantial number of small entities," and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A "substantial number" is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities judged to be substantial by the rulemaking official. A "significant economic impact" is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $4,850 for unscheduled operators.

Of the 82 U.S.-registered airplanes affected by the proposed AD, three airplanes are owned by the federal government. Of the other 79, one business owns 24 airplanes, one business owns 7 airplanes, one business owns 6 airplanes, one business owns 3 airplanes, 6 businesses own 2 airplanes each, and twenty-seven businesses own 1 airplane each.

As presented in the crack scenario discussion, replacing the top flange of the wing rear spar attachment caps immediately or within 2,400 hours TIS is more economical in all scenarios than continuing to repetitively inspect the part for the life of the airplane. Therefore, the proposed AD would not have a "significant economic impact on a substantial number of small entities."

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 action (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) if promulgated, will not have a significant economic impact on a substantial number of small entities. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 73–05–03, Amendment 39–1658, and adding a new AD to read as follows:

De Havilland: Docket No. 91–CE–21–AD. Supersedes AD 73–05–03, Amendment 39–1658.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (serial numbers 1 to 330), certificated in any category, that have not incorporated Modification 6/1301 in accordance with the instructions in Part C of de Havilland Service Bulletin (SB) 6/295, Revision D, dated December 20, 1991.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent cracking of the top flange of the wing rear spar attachment caps, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect both wing rear spar attachment caps, part number (P/N) C6WM1032, for cracks in accordance with paragraph A of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991. The exposure time of Inspection Method A.1 (Radiographic) shall be 120 seconds instead of 60 seconds for the inboard X-ray tube location, and the X-ray beam angle shall be decreased from 10 degrees to 5 degrees for all X-ray tube locations.

(1) If cracking is not detected, reinspect each cap every 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(2) If spanwise cracking is detected outboard of the 10th rivet, accomplish the following:

(i) For cracks that have the following (the criteria of paragraph (c) in the Compliance section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991):

First to tenth rivet.	No cracks.
11th to 29th rivet.	One cracked pitch (the distance between adjacent rivet holes) in ten pitches with four uncracked pitches minimum between cracks.
30th to 69th rivet.	Two cracked pitches in ten pitches with four uncracked pitches minimum between cracks.
70th to 74th (end).	One cracked pitch.

Repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 100 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(ii) For cracks found outboard of the 10th rivet that run only between two adjacent rivets provided not more than four such cracks exist in an attachment cap and a minimum of two rivet pitch lengths of uncracked material separates cracks (the criteria of paragraph (b) in the Compliance section of de Havilland SB No. 6/295), repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 600 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(iii) For cracks that meet or exceed the criteria of paragraphs (b) or (c) in the Compliance section of de Havilland SB No. 6/295, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and reinspect thereafter at intervals not to exceed 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(3) If spanwise cracking is detected inboard of the third rivet, or if a chordwise crack is detected, or if the total length of cracks on a cap exceeds 50 inches, prior to further flight, replace the spar cap with a Modification 6/1301 cap in accordance with paragraph C of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991.

(4) If spanwise cracking is detected between the third and tenth rivet, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and reinspect inboard of the alter attachment caps at intervals not to exceed 50 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(5) If cracking exceeds 30 inches but does not exceed 50 inches, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and reinspect the spar cap at intervals not to exceed 600 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(b) Within 100 hours after the effective date of this AD and thereafter at intervals not to exceed 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD, inspect the splice plates of the vertical and horizontal legs of the rear spar fitting at Wing Stations 87 to 91 for cracks or elongated rivet holes. Prior to further flight, replace any part that is cracked or has elongated rivet holes with a serviceable part.

(c) Within 2,400 hours TIS after the effective date of this AD, replace both wing rear spar caps with a Modification 6/1301 spar cap in accordance with paragraph C of the Accomplishment Instructions in de Havilland SB No. 6/295, Revision D, dated December 20, 1991, unless already accomplished in accordance with paragraph (a) (3) of this AD.

(d) Incorporating Modification 6/1301 on both wing rear spar caps in accordance with paragraph C of the Accomplishment Instructions in de Havilland SB No. 6/295, Revision D, dated December 20, 1991, is considered terminating action for the inspection requirements of this AD.

(e) 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.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 25, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26877 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–37–1–5925b; FRL–5090–7]

Approval and Promulgation of Implementation Plans Alabama: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Alabama for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), which will be fully implemented by November 15, 1994. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by November 30, 1994.

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

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

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

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

Alabama Department of Environmental Management, Office of General Counsel, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4195.

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

Dated: October 4, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–26841 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–064–1–6408b; FRL–5092–6]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of North Carolina for the purpose of extending the New Source Review (NSR) regulations to new nonattainment areas for O_3 and carbon monoxide (CO). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval as set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by November 30, 1994.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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

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

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides and Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ex4212.

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

Dated: October 5, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–26845 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA–23–1–6438b; FRL–5092–2]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of implementing a contingency measure plan for carbon monoxide. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for Vancouver, Washington. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set

forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by November 30, 1994.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington, Department of Ecology, 300 Desmond Drive, Lacey, WA 98504.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air & Radiation Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6917.

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

Dated: October 5, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 94–26843 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 700, 720, 721, 723, and 725

[OPPTS–00049E; FRL–4919–1]

RIN 2070–AB61

Microbial Products of Biotechnology; Proposed Regulation Under the Toxic Substances Control Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period for a proposed rule under section 5 of the Toxic Substances Control Act (TSCA), to screen microorganisms before they are introduced into commerce. The proposed rule is designed to prevent unreasonable risk to human health and the environment without imposing unnecessary regulatory burdens on the biotechnology industry. The proposed regulation describes notification procedures and microorganisms that would be exempt from notification.

DATES: Written comments on the proposed rule should be submitted to EPA by December 31, 1994.

ADDRESSES: Comments on issues concerning the proposed rule should bear the docket control number OPPTS–00049C, and should be submitted to: TSCA Public Docket Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For general information including copies of this document and related materials: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, Telephone: (202–554–1404), TDD: (202–554–0551). For technical information on the proposed rule: Paul Campanella, Office of Pollution Prevention and Toxics (7405), Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460, Telephone: (202–260–3725).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 1, 1994 (59 FR 45526), EPA issued a proposed rule under section 5 of TSCA, TSCA authorizes EPA to regulate any chemical substance, except for certain substances covered by other Federal agencies. The Act defines chemical substance broadly enough to cover microorganisms. TSCA section 5 establishes a 90-day process for EPA to screen certain chemical substances before they are produced. Section 5(a) allows EPA to require submission of a notification for microorganisms that are considered "new" chemical substances and those that will be made for a "significant new use." Section 5(h) provides for certain exemptions from the 90-day screening process. In the proposed rule, a 60-day comment period was provided. In response to requests by interested parties, EPA is extending the comment period on its proposed rule by 60 days. Comments must now be received by December 31, 1994.

As part of an interagency "streamlining" initiative, EPA is making this proposed rule and certain support documents available electronically. They may be accessed through the Internet at: gopher.epa.gov.

EPA is very interested in learning whether persons have obtained these documents electronically and what their experiences were in doing so. Persons who comment on this proposed rule are encouraged to provide feedback on this electronic availability with their comments.

To obtain further information or to provide feedback on the electronic availability of these documents, please contact Juanita Geer (Telephone: 202–260–1532; FAX: 202–260–1657; Internet: geer.juanita@epamail.epa.gov). Please be advised that Ms. Geer will accept only feedback on the electronic availability of these documents; all comments on the substance of the proposed rule must be submitted to the docket above.

List of Subjects in 40 CFR Parts 700, 720, 721, 723, and 725

Environmental protection, Administrative practice and procedure, Biotechnology, Chemicals, Hazardous substances, Imports, Labeling, Microorganisms, Occupational safety and health, Reporting and recordkeeping requirements.

Dated: October 24, 1994.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 94–26911 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 745

[OPPTS–62184; FRL–4917–6]

RIN 2070–AC64

Lead; Requirements for Lead-based Paint Activities; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period for a proposed rule requiring that individuals engaged in lead-based paint activities are properly trained and certified; that training programs are accredited: and that contractors engaged in lead-based paint activities are certified. The proposed rule also establishes procedures for States to apply for authorization to administer and enforce a State lead training, certification, and accreditation program.

DATES: Written comments on the proposed rule must be submitted to EPA by December 15, 1994.

ADDRESSES: Submit comments in triplicate by mail to: TSCA Public Docket Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments must include the docket control number OPPTS–62128.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm E–543B, 401 M St., SW., Washington, DC 20460, Telephone (202) 554–1404, TDD: (202) 544–0551. For technical questions: Diane Sheridan (202) 260–0961.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 2, 1994 (59 FR 45872), EPA issued a proposed rule under Title IV of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2682 and 2684). Section 402 of TSCA directs EPA to promulgate regulations governing lead-based paint activities. Section 404 of TSCA requires that any State that seeks to administer and enforce the requirements established by the Agency under section 402 of TSCA must submit to the Administrator a request for authorization of such a program. In the proposed rule, a 60-day comment period was provided for. In response to requests by interested parties, EPA is extending the comment period on its proposed rule by 45 days. Comments must now be received by December 15, 1994.

List of Subjects in 40 CFR Part 745

Environmental protection, Abatement, Housing renovation, Lead, Lead-based paint, Reporting and recordkeeping requirements.

Dated: October 23, 1994.

Joseph A. Carra,

Acting, Director, Office of Pollution Prevention and Toxics.

[FR Doc. 94–26913 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF ENERGY

48 CFR Parts 915, 931, 942, 951, 952, and 970

RIN 1991–AB12

Revisions to Independent Research and Development and Bid and Proposal Costs Policy, Travel Policy, and Technical Changes

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) proposes to amend its Acquisition Regulation to effect changes to Independent Research and Development (IR&D) and Bid and Proposal Costs (B&P); reflect Federal Acquisition Regulation (FAR) changes to the Cost Accounting Standards (CAS); and incorporate travel policy revisions resulting from Public Law and FAR changes. Additionally, there are technical changes updating references, correcting editorial errors, and clarifying language.

DATES: Written comments must be submitted no later than December 30, 1994.

ADDRESSES: Comments should be addressed to: Terrence D. Sheppard, Business and Financial Policy Division (HR–521.2), Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Terrence D. Sheppard, (202) 586–8174.

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comments
III. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 12612

I. Background

Pursuant to section 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in the Secretary. In accordance with this authority, the Department of Energy Acquisition Regulation (DEAR), 48 CFR chapter 9, was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984).

The purpose of this rule is to amend the DEAR to formally establish policies, procedures, and contract provisions that reflect the DOE position relative to the allowability of IR&D/B&P costs and IR&D/B&P advance agreements and travel costs. Additionally, it reflects the recodification of the CAS into 48 CFR chapter 99, and its incorporation into FAR, Appendix B. Concomitant with these changes, there are several revisions which delete references to outdated policies or activities.

A detailed list of changes follows:

1. The authority citation for parts 915, 931, 942, 951, and 952 is restated.

2. Subsection 915.805–5 is amended to delete the requirement in paragraph (c)(1) that a copy of the audit request be sent to the DOE Inspector General (IG). Pursuant to interagency agreements, the DOE contract audit agency is the Defense Contract Audit Agency (DCAA); the Department of Health and Human Services (HHS) has audit cognizance for most educational institutions.

3. Subparagraph 915.970–8(d)(1) is revised to add a reference to the relocation of the CAS to FAR Appendix B (Federal Acquisition Circular (FAC) 90–12, August 31, 1992).

4. Subsection 931.205–18 is revised to add the acronyms "IR&D" and "B&P" to the title. The DEAR reference to the FAR is changed from (c)(3) to (c)(2), because the FAR amendment (FAC 90–13, September 24, 1992) deleted FAR (c)(3). Paragraph (c)(4) is deleted in its entirety, except for a portion of the first sentence of (c)(4) which was moved to (c)(2). Also, FAC 90–13 replaced the requirement for separate advance agreements with temporary limits (for a 3-year period) on allowable IR&D/B&P costs. DOE has chosen not to institute the temporary limits, but rather to allow for full recovery, immediately. Thus, the text was amended to reflect the DOE policy that generally IR&D costs are allowable if reasonable, allocable, and they have a potential benefit or relationship to the DOE program. B&P costs are generally allowable if they are reasonable and allocable.

5. Section 942.003, paragraph (a) is revised to delete references to the Department of Defense (DOD) services; the services no longer have individual plant residencies. This revision reflects the current DOD structure for contract administration.

6. Section 942.101 is amended by deleting the reference to the Air Force Contract Management Division (AFCMD) and the DOE IG in paragraphs (a)(2) and (c), respectively. The AFCMD no longer exists and the Office of

Procurement and Assistance Management now negotiates the interagency agreements with DCAA and HHS. Paragraph (a)(3) is redesignated as (a)(2) to accommodate the deletion of AFCMD.

7. Subsection 942.705–1 is revised at paragraph (a)(3) by deleting the statement that a listing of business units, for which DOE has final indirect cost rate negotiation responsibility, is published in the DOE Order System. The listing is no longer published in the DOE Order System. The revised paragraph (b)(1) clarifies the proscription that contractors shall neither be required nor directed to submit final indirect cost rate proposals to the auditor.

8. Subsection 942.705–3 is revised to correct the statement that negotiated rates are "centrally maintained" when, in fact, they are only "distributed" by the Office of Policy.

9. Subsection 942.705–4 is revised to correct the statement that negotiated rates are maintained by the Office of Policy, when, in fact, they are only distributed by the Office.

10. Subsection 942.705–5 is revised to correct the statement that negotiated rates are maintained by the Office of Policy, when, in fact, they are only distributed by the Office.

11. Subpart 942.10 is removed as a result of concomitant changes to the IR&D/B&P advance agreements (see item 4, foregoing). There is no longer a requirement to negotiate advance agreements; thus, the coverage is removed in its entirety.

12. Subsection 942.7003–6 is revised to add the word "Administration" to the title of FAR Part 30, which was changed as a result of FAC 90–12, August 31, 1992. Additionally, the reference to Public Law 91–379, which established the CAS, is deleted due to the subsequent incorporation of the CAS in FAR Appendix B and their application to civilian agencies pursuant to Public Law 100–679.

13. Subsection 942.7004 is revised at paragraph (a) to incorporate the results of the interagency agreements between the Office of Procurement and Assistance Management and DCAA and HHS. References to the DOE IG are deleted. Paragraphs (b), (c), and (d) are deleted as they describe internal operating procedures that, in large part, are no longer valid.

14. Subsection 951.7000 is revised to delete the reference to outdated General Services Administration (GSA) Bulletin A–95. The reference to the Federal Property Management Regulations (FPMRs) is sufficient.

15. Subsection 951.7001 is revised to delete the reference to outdated GSA Bulletin A–95 in the introductory paragraph. Paragraphs (a), (b), and (c) are deleted as they duplicate information contained in clause 952.251–70.

16. Subsection 952.251–70 is amended to correct a referenced citation at paragraph (a) from "Property Management Regulation (FPMR), Temporary Regulation A–30" to "Travel Regulation (FTR), Part 301–15, Travel Management Programs."

17. The authority citation for part 970 is restated.

18. Subsection 970.3001–1 is revised to reflect the relocation of the CAS, within the FAR, from part 30 to appendix B.

19. Subsection 970.3001–2 is revised to correct the cross reference from "970.3102–10" to "970.3102–3."

20. Subsection 970.3102–17 is amended by revising paragraph (c)(2)(i) and adding new paragraphs (c)(6) and (c)(7). In (c)(2)(i), line 1, the letter "s" is deleted from the word "Regulations" to reflect the new title. New subparagraph (c)(6) is added to reflect changes in FAR 31.205–46, "Travel costs" as a result of FAC 90–7 which provided for downward adjustments to the maximum per diem rates when no lodging costs are incurred or on partial travel days. A new paragraph (c)(7) is added which refers to the incorporation of the Public Law 100–679 requirements in 970.5204–13 and 970.5204–14. Public Law 100–679, which amended the Office of Federal Procurement Policy Act, states that, for State and nonprofit institutions performing federally sponsored research, travel costs shall be considered reasonable and allowable only to the extent that such costs do not exceed charges normally allowed by the respective institution in its regular operations as a result of an institutional policy. In the absence of institutional policies, rates and amounts shall be determined by either subchapter I of chapter 57 of title 5, United States Code, or by the General Services Administration, or the President, or his designee.

21. Subsection 970.5204–13 is amended by revising paragraph (e)(35) to add a "NOTE" directing the Contracting Officer to use the alternate clause for contracts with State and nonprofit institutions. The "NOTE" reflects that, pursuant to Public Law 100–679, which amended the Office of Federal Procurement Policy Act, travel costs of State and nonprofit institutions performing federally sponsored research shall be considered reasonable and allowable only to the extent that such costs do not exceed charges normally allowed by the respective institution in its regular operations as a result of an institutional policy. In the absence of institutional policies, rates and amounts shall be determined by either subchapter I of chapter 57 of title 5, United States Code, or by the General Services Administration, or the President, or his designee.

22. Subsection 970.5204–14 is amended by revising paragraph (e)(33) to add a "NOTE" directing the Contracting Officer to use the alternate clause for contracts with State and nonprofit institutions. The "Note" reflects that, pursuant to Public Law 100–679, which amended the Office of Federal Procurement Policy Act, travel costs of State and nonprofit institutions performing federally sponsored research shall be considered reasonable and allowable only to the extent that such costs do not exceed charges normally allowed by the respective institution in its regular operations as a result of an institutional policy. In the absence of institutional policies, rates and amounts shall be determined by either subchapter I of Chapter 57 of Title 5, United States Code, or by the General Services Administration, or the President, or his designee.

23. Subsection 970.7104–33 is revised to reflect the relocation of the Cost Accounting Standards, within the FAR, from part 30 to appendix B.

II. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed Department of Energy Acquisition Regulation amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by the date indicated in the **DATES** section of this notice and all other relevant information in the record will be carefully assessed and fully considered prior to publication of the final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination (See 10 CFR 1004.11).

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have substantial impact on the nation's economy or a large number of individuals or businesses. Therefore, pursuant to Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs agencies to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposal meets the requirements of sections 2(a) and (b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information or recordkeeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the proposed amendments to the DEAR do not change the environmental effect of the rule being amended (categorical exclusion A5). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 12612

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This proposed rule, when finalized, will revise certain policy and procedural requirements. States which contract with DOE will be subject to this rule. However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

List of Subjects in 48 CFR Parts 915, 931, 942, 951, 952, and 970

Government Procurement.

Issued in Washington, D.C. on June 22, 1994.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

1. The authority citation for Parts 915, 931, 942, and 951 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

PART 915—CONTRACTING BY NEGOTIATION

2. Subsection 915.805–5 is amended by revising paragraph (c)(1) to read as set forth below:

915.805–5 Field pricing support.

* * * * *

(c)(1) When an audit is required pursuant to 915.805–70, "Audit as an aid in proposal analysis," the request for audit shall be sent directly to the Federal audit office assigned cognizance of the offeror or prospective contractor. When the cognizant agency is other than the Defense Contract Audit Agency or the Department of Health and Human Services, and an appropriate interagency agreement has not been established, the need for audit assistance shall be coordinated with the Office of Policy, within the Headquarters procurement organization.

* * * * *

3. Subsection 915.970–8 is amended by revising the introductory text to paragraph (d)(1) to read as set forth below:

915.970–8 Weighted guidelines application considerations.

* * * * *

(d) Capital investment (facilities). (1) This element relates to the consideration to be given in the profit objective in recognition of the investment risk associated with the facilities employed by the contractor. Measurement of the amount of facilities capital employed is discussed in 48 CFR 9904.414 (FAR Appendix B, 9904.414). Five to twenty percent of the net book value of facilities capital allocated to the contract is the normal range of weight for this profit factor. The key factors that the negotiating official shall consider in evaluating this factor are:

* * * * *

PART 931—CONTRACT COST PRINCIPLES AND PROCEDURES

4. Subsection 931.205–18 is revised to read as follows: 931.205–18 Independent research and development (IR&D) and bid and proposal (B&P) costs.

(c)(2) IR&D costs are recoverable under DOE contracts to the extent they are reasonable, allocable, not otherwise unallowable, and have potential benefit or relationship to the DOE program. The term "DOE program" encompasses the

DOE total mission and its objectives. B&P costs are recoverable under DOE contracts to the extent they are reasonable, allocable, and not otherwise unallowable.

PART 942—CONTRACT ADMINISTRATION

5. Section 942.003 is amended by revising paragraph (a) as set forth below:

942.003 Organizational structure.

(a) The Department of Defense has initiated a formal system of independent organizations responsible for performance of post-award management functions. A field structure of Contract Administration Offices (CAO) responsible for contract management and administration of contracts for major defense contractors has been established. DOD has organized plant residencies of contract management specialists for specific DOD contractors and their various business units. The Defense Logistics Agency performs contract management functions both at onsite residencies of contractors and on a mobile basis from centrally located management areas for other defense contractors. A complete listing of the DOD contract administration service components is contained in the Defense Directory cited in (FAR) 48 CFR 42.102.

* * * * *

6. Section 942.101 is amended by removing paragraph (a)(2); redesignating paragraph (a)(3) as (a)(2); and revising paragraph (c) to read as follows:

942.101 Policy.

* * * * *

(c) The Department of Energy has executed memoranda of understanding with the Defense Contract Audit Agency and the Office of Audit of the Department of Health and Human Services to provide audit support service to the DOE in support of its procurement mission. Procedures for acquiring these services are discussed in 942.70.

7. Subsection 942.705–1 is revised to read as follows:

942.705–1 Contracting officer determination procedure.

(a)(3) The Department of Energy shall use the contracting officer determination procedure for all business units for which it shall be required to negotiate final indirect cost rates. A listing of such business units is maintained by the Office of Policy, within the Headquarters procurement organization.

(b)(1) Pursuant to FAR 52.216–7, Allowable Cost and Payment, contractors shall be requested to submit their final indirect cost rate proposals reflecting actual cost experience during the covered periods to the cognizant contracting officers responsible for negotiating their final indirect rates. The DOE negotiating official shall request all needed audit service in accordance with the procedures in 942.70, Audit Services.

8. Subsection 942.705–3 is revised to read as follows:

942.705–3 Educational institutions.

(a)(2) The negotiated rates established for the institutions cited in OMB Circular No. A–88 are distributed, to the Cognizant DOE Office (CDO) assigned lead office responsibility for all DOE indirect cost matters relating to a particular contractor, by the Office of Policy, within the Headquarters procurement organization.

9. Subsection 942.705–4 is revised to read as follows:

942.705–4 State and local governments.

A list of cognizant agencies for State/local government organizations is periodically published in the **Federal Register** by the Office of Management and Budget (OMB). The responsible agencies are notified of such assignments. The current negotiated rates for State/local government activities are distributed to each CDO by the Office of Policy, within the Headquarters procurement organization.

10. Subsection 942.705–5 is revised to read as follows:

942.705–5 Nonprofit organizations other than educational and state and local governments.

OMB Circular A–122 establishes the rules for assigning cognizant agencies for the negotiation and approval of indirect cost rates. The Federal agency with the largest dollar value of awards (contracts plus Federal financial assistance dollars) will be designated as the cognizant agency. There is no published listing of assigned agencies. The Office of Policy, within the Headquarters procurement organization, distributes to each CDO the rates established by the cognizant agency.

Subpart 942.10 [Removed]

11. Subpart 942.10 (including 942.1004 and 942.1008) is removed.

12. Subsection 942.7003–6 is revised to read as follows:

942.7003–6 CAS disclosure statements.

The audit activity is available and, in accordance with (FAR) 48 CFR Part 30, Cost Accounting Standards Administration, is responsible for making recommendations to the contracting officer as to whether the CAS disclosure statement, submitted by the contractor as a condition of the contract, adequately describes the actual or proposed cost accounting practices and is in compliance with the Cost Accounting Standards required under the terms of the contract. The contracting officer shall request the auditor to review all Disclosure Statements submitted by a contractor or potential contractor.

13. Section 942.7004 is revised to read as follows:

942.7004 Procedures.

The Department of Energy Headquarters procurement organization has established formal interagency arrangements with the Defense Contract Audit Agency (DCAA) and the Department of Health and Human Services, Office of Inspector General. Audits are available to contracting officers pursuant to terms of these arrangements. DCAA, as the DOE cognizant auditor, is responsible for performing audits, when requested, for all DOE prime contractors and DOE Management and Operating contractors' subcontractors, except where another agency has cognizance of a contractor. HHS, for example, has contract audit cognizance for most educational institutions.

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

14. Section 951.7000 is revised to read as follows:

951.7000 Scope of subpart.

The General Services Administration (GSA) and, in some cases, the Department of Defense (DOD) Military Traffic Management Command negotiate agreements with commercial organizations to provide certain discounts to contractors traveling under Government cost-reimbursable contracts. In the case of discount air fares and hotel/motel room rates, the GSA has established agreements with certain airlines and thousands of hotels/motels to extend discounts which were previously only available to Federal employees on official travel status. DOD has negotiated agreements with car rental companies for special rates with unlimited mileage which were also to be used by only Federal employees on official Government business. GSA Federal Property Management Regulations (FPMRs) make these three travel discounts available to Government cost-reimbursable contractors at the option of the vendor.

15. Section 951.7001 is revised to read as follows:

951.7001 General policy.

Contracting officers will encourage DOE cost-reimbursable contractors (CRCs) to use Government travel discounts to the maximum extent practicable in accordance with contractual terms and conditions. Vendors providing the service may require that Government contractor employees furnish a letter of identification signed by the authorizing contracting officer. Contracting officers shall provide CRCs with a "Standard Letter of Identification" when appropriate to do so. An example of a "Standard Letter of Identification" is at 952.251–70(e).

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

16. Subsection 952.251–70 is amended by revising paragraph (a) of the clause to read as follows:

952.251–70 Contractor employee travel discounts.

* * * * *

(a) *Contracted airlines.* Airlines participating in travel discounts are listed in the Federal Travel Directory (FTD), published monthly by the General Services Administration (GSA). Regulations governing the use of contracted airlines are contained in the Federal Travel Regulation (FTR), 41 CFR Part 301–15, Travel Management Programs. It stipulates that cost-reimbursable contractor employees may obtain discount air fares by use of a Government Transportation Request (GTR), Standard Form 1169, cash or personal credit cards. When the GTR is used, contracting officers may issue a blanket GTR for a period of not less than two weeks nor more than one month. In unusual circumstances, such as prolonged or international travel, the contracting officer may extend the period for which a blanket GTR is effective to a maximum of three months. Contractors will ensure that their employees traveling under GTR provide the GTR number to the contracted airlines for entry on individual tickets and on month-end billings to the contractor.

* * * * * *

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

17. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Public Law 99–145 (42 U.S.C. 7256a), as amended.

18. Subsection 970.3001–1 is revised to read as follows:

970.3001–1 Applicability.

The provisions of FAR Part 30 and 48 CFR Chapter 99 (FAR Appendix B) shall be followed for management and operating contracts.

19. Subsection 970.3001–2 is revised to read as follows:

970.3001–2 Limitations.

Cost of money as an element of the cost of facilities capital (CAS 414) and as an element of the cost of capital assets under construction (CAS 417) is not recognized as an allowable cost under contracts subject to 48 CFR Part 970 (See 970.3102–3).

20. Subsection 970.3102–17 is amended by revising paragraph (c)(2)(i) and by adding paragraphs (c)(6) and (c)(7) to read as follows:

970.3102–17 Travel costs.

* * * * *

(c) * * *

(2) * * *

(i) Federal Travel Regulation prescribed by the General Services Administration, for travel in the conterminous 48 United States.

* * * * *

(6) The maximum per diem rates referenced in paragraph (c)(2) of this section generally would not constitute a reasonable daily charge: (i) when no lodging costs are incurred; and/or (ii) on partial travel days (e.g., same day of departure and return). Appropriate downward adjustments from the maximum per diem rates would normally be required under these circumstances. While these adjustments need not be calculated pursuant to the Federal Travel Regulation, Joint Travel Regulations, or Standardized Regulations, they must result in a reasonable charge.

(7) For contracts with State and nonprofit institutions which conduct federally sponsored research and related activities, costs incurred for lodging, other subsistence, and incidental expenses, are subject to the provisions of 970.5204–13(e)(35) NOTE and 970.5204–14(e)(33) NOTE.

21. Subsection 970.5204–13 is amended by revising paragraph (e)(35) of the clause to read as follows:

970.5204–13 Allowable costs and fixed-fee (Management and Operating contracts)

* * * * *

(e) * * *

(35) Contractor employee travel costs incurred for lodging, meals and incidental expenses which exceed on a daily basis the applicable maximum per diem rates in effect for Federal civilian employees at the time of travel. When the applicable maximum per diem rate is inadequate due to special or unusual situations, the contractor may pay employees for actual expenses in excess of such per diem rate limitations. To be allowable, however, such payments must be properly authorized by an officer or appropriate official of the contractor and shall not exceed the higher amounts that may be authorized for Federal civilian employees in a similar situation.

Note: For contracts with State and nonprofit institutions which conduct federally sponsored research and related activities, use the following clause:

Contractor employee travel costs incurred for lodging, other subsistence, and incidental expenses shall be considered reasonable and allowable, to the extent such costs do not exceed charges normally allowed by the institution in its regular operations pursuant to a disclosed or established institutional policy and the amounts claimed are otherwise reasonable and allocable. In the absence of an acceptable institutional policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code, or by the General Services Administration, or the President (or his designee) pursuant to any provisions of such subchapter shall apply to the agreements (41 U.S.C. 420(b)).

* * * * *

22. Subsection 970.5204–14 is amended by revising paragraph (e)(33) of the clause to read as follows:

970.5204–14 Allowable costs and fixed-fee (support contracts).

* * * * *

(e) * * *

(33) Contractor employee travel costs incurred for lodging, meals and incidental expenses which exceed on a daily basis the applicable maximum per diem rates in effect for Federal civilian employees at the time of travel. When the applicable maximum per diem rate is inadequate due to special or unusual situations, the contractor may pay employees for actual expenses in excess of such per diem rate limitation. To be allowable, however, such payments must be properly authorized by an officer or appropriate official of the contractor and shall not exceed the higher amounts that may be authorized for Federal civilian employees in a similar situation.

Note: For contracts with State and nonprofit institutions which conduct federally sponsored research and related activities, use the following clause:

Contractor employee travel costs incurred for lodging, other subsistence, and incidental expenses shall be considered reasonable and allowable, to the extent such costs do not exceed charges normally allowed by the institution in its regular operations pursuant to a disclosed or established institutional policy and the amounts claimed are otherwise reasonable and allocable. In the absence of an acceptable institutional policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code, or by the General Services Administration, or the President (or his designee) pursuant to any

provisions of such subchapter shall apply to the agreements (41 U.S.C. 420(b)).

* * * * *

23. Subsection 970.7104–33 is revised to read as follows:

970.7104–33 Cost Accounting Standards.

The provisions of (FAR) 48 CFR Part 30 and 48 CFR Chapter 99 (FAR Appendix B) shall apply to purchases by management and operating contractors.

[FR Doc. 94–26787 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Notices

Federal Register
Vol. 59, No. 209
Monday, October 31, 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

Federal Grain Inspection Service

Opportunity for Designation in the Jinks (IL) Area

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designation of Jinks Grain Weighing Service (Jinks) will end February 28, 1995, according to the Act, and FGIS is asking persons interested in providing Class X or Y weighing services in the Jinks geographic area to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before November 30, 1994.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Jinks, main office located in Homer, Illinois, to provide Class X or Y weighing services under the Act on March 1, 1992.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The Jinks designation ends on February 28, 1995.

In the September 1, 1994, **Federal Register** (59 FR 45258), FGIS asked persons interested in providing Class X or Y weighing services in the geographic area assigned to Jinks to submit an application for designation. There were no applicants for the Jinks area. FGIS is again asking persons interested in providing Class X or Y weighing services in the geographic area assigned to Jinks to submit an application for designation.

The geographic area presently assigned to Jinks, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana, to U.S. Route 41;

Bounded on the East by U.S. Route 41 south to the southern Fountain County line; the Fountain County line west to Vermillion County (in Indiana); the eastern Vermillion County line south to U.S. Route 36;

Bounded on the South by U.S. Route 36 west into Illinois, to the Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the Champaign County line; the northern Champaign County line; the western Vermilion (in Illinois) and Iroquois County lines.

Interested persons, including Jinks, are hereby given the opportunity to apply for designation to provide Class X or Y weighing services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning March 1, 1995, and ending no later than February 28, 1998. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1994.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 94–26902 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–EN–F

Opportunity to Comment on the Applicant for the Frankfort (IL) Area

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests comments on the applicant for designation to provide official services in the geographic area currently assigned to Frankfort Grain Inspection, Inc. (Frankfort).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by November 30, 1994.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. All comments received will be made

available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the September 1, 1994, **Federal Register** (59 FR 45258), FGIS asked persons interested in providing official services in the geographic areas assigned to Frankfort to submit an application for designation. Frankfort, the only applicant, applied for the entire area currently assigned to them.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning Frankfort. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of Frankfort. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1994.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 94–26901 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–EN–F

Opportunity for Designation in the Detroit (MI), Keokuk (IA), and Michigan (MI) Areas

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Detroit Grain Inspection Service, Inc. (Detroit), Keokuk Grain Inspection Service (Keokuk), and Michigan Grain Inspection Services, Inc. (Michigan), will end April 30, 1995, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before November 30, 1994.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Detroit, main office located in Emmett, Michigan; Keokuk, main office located in Keokuk, Iowa; and Michigan, main office located in Marshall, Michigan, to provide official inspection services under the Act on May 1, 1992.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Detroit, Keokuk, and Michigan end on April 30, 1995.

The geographic area presently assigned to Detroit, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the West by U.S. Route 127 north to U.S. Route 27; U.S. Route 27 north to the northern Clinton County line;

Bounded on the North by the northern Clinton County line; the eastern Clinton County line south to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the Shiawassee County line; the northern Shiawassee County line east to the Genesee County line; the western Genesee County line; the northern Genesee County line east to State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road north to State Route 46; State Route 46 east to State Route 53; State Route 53 north to the Michigan State line;

Bounded on the East by the Michigan State line south to State Route 50; and

Bounded on the South by State Route 50 west to U.S. Route 127.The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: Countrymark Cooperative, Inc., St. Johns, Clinton County (located inside Michigan Grain Inspection Services, Inc.'s, area).

The geographic area presently assigned to Keokuk, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Fulton, Hancock, Mason, and McDonough Counties, Illinois.

Davis, Lee, and Van Buren Counties, Iowa.

The following locations, all in Illinois, outside of the above contiguous geographic area, are part of this geographic area assignment: Ursa Farmers Co-op, Meyer, and Ursa Farmers Co-op, Ursa, both in Adams County (located inside Quincy Grain Inspection & Weighing Service's area).

The geographic area presently assigned to Michigan, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern and eastern Mason and Newago County lines; the northern Montcalm County line; the western, northern, and eastern Isabella County lines; the northern Gratiot and Saginaw County lines; the western Bay County line; the western and northern Arenac County lines; the western and northern Iosco County lines;

Bounded on the East by the Lake Huron and Saginaw Bay shorelines south and east to State Route 53; State Route 53 south to State Route 46;

Bounded on the South by State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to

U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the southern Hillsdale County line; the southern Hillsdale and Branch County lines; the western Branch County line north to the Kalamazoo County line; the southern Kalamazoo and Van Buren County lines; and

Bounded on the West by the Lake Michigan shoreline north to the northern Mason County line.

An exception to Michigan's assigned geographic area is the following location inside Michigan's area which has been and will continue to be serviced by the following official agency: Detroit Grain Inspection Service, Inc.: Countrymark Cooperative, Inc., St. Johns, Clinton County.

Interested persons, including Detroit, Keokuk, and Michigan are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning May 1, 1995, and ending April 30, 1998. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1994.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 94–26903 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–EN–F

Designation of the Fostoria (OH), Idaho (ID), Lewiston (ID), and Utah Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Fostoria Grain Inspection, Inc. (Fostoria), Idaho Grain Inspection Service, Inc. (Idaho), Lewiston Grain Inspection Service, Inc. (Lewiston), and Utah Department of Agriculture (Utah) to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: December 1, 1994.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 1, 1994, **Federal Register** (59 FR 28336), FGIS announced that the designations of Fostoria, Idaho, Lewiston, and Utah will expire on November 30, 1994, and asked persons interested in providing official services in the geographic areas assigned to these agencies to submit an application for designation. Applications were due by June 30, 1994. Fostoria, Idaho, Lewiston, and Utah, the only applicants, each applied for designation in the entire area they are currently assigned.

FGIS asked for comments on the applicants in the August 1, 1994, **Federal Register** (59 FR 38955). Comments were due by August 30, 1994. FGIS received no comments by the deadline for Fostoria or Utah. FGIS received one comment supporting Lewiston and two comments supporting Idaho.

FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Fostoria, Idaho, Lewiston, and Utah are able to provide official services in the geographic areas for which they applied.

Effective December 1, 1994, and ending November 30, 1997, Fostoria, Idaho, Lewiston, and Utah are designated to provide official inspection services in the geographic areas specified in the June 1, 1994, **Federal Register**.Interested persons may obtain official services by contacting Fostoria at 419–435–3804, Idaho at 208–233–8303, Lewiston at 208–746–0451, and Utah at 801–392–2292.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1994.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 94–26904 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Supplemental Draft Environmental Impact Statement Relevant to an Application for a Section 404 Permit, Federal Land Exchange and Ski Area Development; Adam's Rib Recreation Area Development Eagle County, Colorado

LEAD AGENCY: Department of Defense, U.S. Army Corps of Engineers, Sacramento District. Responsible Official: Larry Vinzant.

COOPERATING AGENCIES: U.S. Department of Agriculture, U.S. Forest Service, White River National Forest, Glenwood Springs, CO 81601. Responsible Official: Veto J. LaSalle, Forest Supervisor.

U.S. Department of Interior, Fish and Wildlife Service, Grand Junction Field Office, 529 25½ Road, Suite B–113, Grand Junction, CO 81505. Responsible Official: Keith Rose.

Environmental Protection Agency, Region VIII, One Denver Place, Suite 13, Denver, CO 80202. Responsible Official: William Yellowtail.

Colorado Department of Natural Resources, 1313 Sherman Street, Room 718, Denver, CO 80203. Responsible Official: Jim Lockhead.

County of Eagle, 551 Broadway, Eagle, CO 81631. Responsible Official: County Commissioners.

ACTION: Supplemental Notice Of Intent. Prior Notice of Intent, **Federal Register** June 17, 1993, Volume 58, No. 115, pages 33436–33437.

SUMMARY: The Corps of Engineers published in the **Federal Register**, on June 17, 1993, its intent to prepare a supplemental draft Environmental Impact Statement (sdEIS) relevant to an application for a Section 404 permit to place fill material into wetlands adjacent to East Brush Creek, Eagle County, Colorado, for the construction of commercial/residential development attendant to a four-season resort. This sdEIS is a prelude for preparing a Final EIS prior to a permit decision on the proposed development. The applicant, Kummer Development Corporation dba Adam's Rib Recreation Area, has applied for a permit to fill approximately 25 acres of montane wetlands pursuant to the development which would include 250,000 square feet of commercial space, 4,281 residential units, and 1,440 lodging rooms, employee housing, golfing and skiing for 9,000 skiers-at-one-time on Adam Mountain and Mount Eve.

The USDA-Forest Service, as a Cooperating Agency, through this Notice, intends to directly participate

with the Corps of Engineers to include analyses for impacts to wetlands and waters of the U.S. for the ski mountain and a potential Federal land exchange with the applicant for NEPA compliance. Any additional analyses shall tier into this sdEIS. Also, the sdEIS will disclose environmental effects to public lands regarding development of the ski area portion of the Adam's Rib Recreation Area. Kummer Development Corporation dba Adam's Rib Recreation Area was issued a special use permit by the Forest Supervisor, White River National Forest, December 15, 1983 to occupy approximately 2,920 acres of National Forest System lands. The special use permit authorities construction of the ski area portion of the Adam's Rib Recreation Area upon acceptance of a detailed development plan. The impacts of the detailed development plan will be disclosed in the sdEIS. The existing special use permit is still in effect and will not be available in the sdEIS.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and sdEIS should be directed to either, Larry Vinzant at U.S. Army Corps of Engineers, Regulatory Section-Room 1444, 1325 J Street, Sacramento, California 95814–2972, telephone (916) 557–5263 or Kit Buell, Project Coordinator, U.S. Forest Service, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601, telephone (303) 945–2521.

SUPPLEMENTARY INFORMATION: The applicant proposes to fill approximately 25 acres of montane wetlands dominated by various species of willow, sledge and rush. Nearly all wetland fill would be located on private land in Vassar Meadow; additional development would occur in Joe Goode Meadow, Woodrun, No Name drainage, adjacent to Brush Creek (i.e., golf course and residences) and on the ski mountain. The U.S. Forest Service issued a special use permit for the ski mountain in 1983. On March 3, 1987, the U.S. Army Corps of Engineers published a Notice of Intent in the **Federal Register** to prepare a draft Environmental Impact Statement (EIS). A draft titled "Adam's Rib Recreation Area, Eagle, Colorado" was published in October 1989. A Notice of Availability for this document was published in the **Federal Register** on November 3, 1989 The applicant's preferred alternative resulted in a request for a permit to fill approximately 70 acres of wetlands in the project area. This acreage of wetland fill was later reduced to approximately 46 acres. This permit was denied in February 1993.

The applicant has since modified the proposal to fill approximately 25 acres of wetland. To avoid wetlands, the applicant's preferred alternative has resulted in a relocation of the base area to the west. A lateral moraine known as Adam's Rib would be excavated, with the excavated material placed in the adjacent No Name drainage and portions of Vassar meadow. The reduced Adam's Rib and the No Name drainage would be the location of the base area. Part of the applicant's preferred alternative includes a land exchange with the Forest Service. This sdEIS will supplement and supplant information currently available in the draft EIS.

Alternatives (Section 404 Permit and Federal Land Exchange)

Alternatives that will be considered for detailed evaluation will include:

(1) Base area development on Adam's Rib and No Name drainage with a land exchange with the Forest Service (applicant's preferred alternative).

(2) Same as alternative 1, but no land exchange.

(3) Base area development in Vassar Meadow.

(4) Reasonable variations to the applicant's preferred alternative that would reduce adverse impacts, for example, to wetlands.

(5) No Action.

Alternatives (Ski Mountain Development)

(1) Ski Area Master Development Plan as proposed to the Forest Service, December, 1993.

(2) Reasonable variations to the applicant's proposal that would reduce adverse impacts to natural resources on National Forest System lands.

Scoping (Section 404 permitting)

The Corps issued a scoping notice in conjunction with the Notice of Intent to prepare the draft EIS in 1987. Additionally, the Corps accepted comments on the draft EIS, conducted a Public Hearing in February, 1990 in Gypsum, Colorado, and has coordinated closely with resource agencies and the interested public. The Corps believes that additional scoping concerning wetlands is unnecessary at this time. However, any additional substantive information and new issues arising from comments to the sdEIS shall be thoroughly addressed in the Final EIS.

The Army Corps of Engineers' decisions to be made will include WHETHER OR NOT a Section 404 permit will be issued to the applicant.

Scoping (Land Exchange and Ski Mountain Development)

The Forest Service, in cooperation with the Corps, will conduct scoping in conjunction with, and subsequent to, this Notice of Intent. The Forest Service previously scoped for ski area development issues as a part of the "Adam's Rib Recreation Area Final Environmental Impact Statement" in 1982. It is believed that additional scoping is needed to gather information regarding a potential Federal land exchange associated with the permittee's current base development proposal, and the specific development proposal (detailed development plan) on the ski mountains. The existing special use permit is still in effect and will not be revisited in the sdEIS.

Public participation will be fully incorporated into preparation of the supplemental draft EIS through public notices in local papers and brief information packets to known interested people, groups, local government, and resource agencies. Public meetings will be held in the Eagle and Denver, Colorado areas throughout the public involvement process. The exact dates and locations of these meetings will be published two weeks in advance in local newspapers.

Forest Service decisions to be made will include HOW the ski mountains will be developed within applicable laws and guidelines, and WHETHER OR NOT a Federal Land Exchange will occur.

Preliminary Issues

(1) Impacts to wetlands,
(2) Impacts to water quality,
(3) Impacts to fish and wildlife resources,
(4) Socio-economic effects,
(5) Cumulative impacts of developing a new ski area,
(6) Impacts on outdoor recreation,
(7) Visual impacts,
(8) Exchange of Federal lands,
(9) Installation of power transmission lines.

DATES FOR FILING THE SDEIS AND FINAL EIS: The sdEIS is scheduled to be published in June 1995, with the Final EIS estimated in December, 1995.

The comment period on the supplemental draft environmental impact statement will be 60-days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First,

reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objectives are made available to the Forest Service and Army Corps at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Other Environmental Review and Consultation

Required review and consultation which will be conducted during this National Environmental Policy Act process include sections 401 and 404 of the Clean Water Act, Fish and Wildlife Coordinating Act, National Historic Preservation Act, Endangered Species Act, Federal Land Exchange Facilitation Act, and Executive Orders 11988 (Flood Plain Management) and 11990 (Wetlands)

Veto J. LaSalle,

Forest Supervisor, White River National Forest.

[FR Doc. 94–26849 Filed 10–28–94; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Arlington, VA on Tuesday and Wednesday, November 15–16, 1994 at the times and location noted below.

DATES: The schedule of events is as follows:.

Tuesday, November 15, 1994

9:30–11:30 a.m. Recreational Facilities and Outdoor Developed Areas Work Group (closed meeting)
11:30–1:00 p.m. Children's Facilities Work Group (closed meeting)
2:30–4:30 p.m. State and Local Government Facilities Work Group (closed meeting)

Wednesday, November 16, 1994

9:30–10:30 a.m. Federal Facilities Work Group (closed meeting)
10:30–12:30 p.m. Technical Programs Committee
1:30–3:30 p.m. Board Meeting.

ADDRESSES: The meetings will be held at: Day's Inn, Crystal City, 2000 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the Minutes of the July 13 and September 16, 1994 Board Meetings.
- Executive Director's Report.
- Report on Recreational Facilities and Outdoor Developed Areas Work Group.
- Notice of Proposed Rulemaking on Children's Facilities.
- Report on State and Local Government Facilities Work Group.
- Report on Federal Facilities Work Group.
- Status Report on Fiscal Year 1993–1994 Research Projects.
- Funding of Phase II of the Detectable Warnings Research Project and Recommendations for Rulemaking.
- Fiscal Year 1995 Research Priorities.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

James J. Raggio,

General Counsel.

[FR Doc. 94–26927 Filed 10–28–94; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Notice of Meeting Cancellation

This document cancels the following meeting:

Federal Register citation of previous announcement: p. 52284, October 17, 1994.

Previously announced time of meeting: 9:00 a.m., November 7, 1994.

Dated: October 25, 1994.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit, (202) 482–2583.

[FR Doc. 94–26895 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 32–94]

Proposed Foreign-Trade Zone; Anniston, AL (Birmingham Customs Port of Entry); Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Anniston-Calhoun County Airport Commission (an Alabama public corporation), requesting authority to establish a general-purpose foreign-trade zone in Anniston, Alabama, adjacent to the Birmingham Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 18, 1994. The applicant is authorized to make the proposal under Act No. 77–498, Section 33–1–30 of the Code of Alabama, 1975, as amended.

The proposed zone would be the second general-purpose zone in the Birmingham Customs port of entry area. The existing zone, *FTZ 98,* Birmingham, was authorized in 1984 (Grantee: City of Birmingham, Alabama, Board Order 247, 49 F.R. 19367, 5/7/84).

The proposed foreign-trade zone site covers the Anniston Metropolitan

Airport complex (563 acres), which is 90 miles west of Atlanta and 60 miles east of Birmingham. The airport complex includes air cargo facilities and an industrial park. It is owned by the City of Anniston and operated by the Airport Commission.

The application contains evidence of the need for zone services in the Anniston area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as automotive equipment, electrical and electronic supplies, food and related products, and machinery. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on November 15, 1994, 2:00 p.m., at the Offices of Anniston Executive Aviation, Anniston Metropolitan Airport, 2500 Talladega Highway (Highway 21), Oxford, Alabama 36203.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 30, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 17, 1995.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Office of the Port Director, U.S. Customs Service, 5900 Airport Highway, Birmingham, Alabama 35212

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 21, 1994.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–26890 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 705]

Grant of Authority for Subzone Status; Picker International, Inc.; (Medical Diagnostic Imaging Equipment); Valley View, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, for authorization for special-purpose subzone status at the processing/distribution facility of Picker International, Inc. in Valley View, Ohio, was filed by the Board on July 30, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 36–93, 58 FR 42287, August 9, 1993); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 40F) at the plant site of Picker International, Inc., in Valley View, Ohio, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 21st day of October, 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–26893 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 706]

Establishment of a Foreign-Trade Zone; Tri-City Regional Airport; Customs User Fee Airport Area of Tennessee and Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Tri-City Airport Commission, an interstate public entity (the Grantee), has made application (FTZ Docket 62–93, 58 FR 68115, 12/23/93) to the Board, requesting the establishment of a foreign-trade zone at the Tri-City Regional Airport, Sullivan County, Tennessee, a Customs user fee airport, with additional sites in and near Bristol and Kingsport, Sullivan County, Tennessee; Johnson City, Washington County, Tennessee; and, Bristol, Virginia; and,

Whereas, notice inviting public comment has been given in the **Federal Register** and the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 204, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28, subject to a 2,000-acre activation limit.

Signed at Washington, DC, this 18th day of October, 1994.

Ronald H. Brown,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–26891 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 702]

Establishment of a Foreign-Trade Zone; Moses Lake, Washington

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Moses Lake Public Corporation (the Grantee), has made application (FTZ Docket 16–90, 55 FR 18924, 5/7/90) to the Board, requesting the establishment of a foreign-trade zone in Moses Lake, Washington, at the Grant County Airport, a Customs user fee port facility; and,

Whereas, notice inviting public comment has been given in the **Federal Register** and the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 203, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 18th day of October, 1994.

Ronald H. Brown,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–26892 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

A–588–602

Certain Carbon Steel Butt-Weld Pipe Fittings From Japan; Initiation of Anti-Circumvention Inquiry on Antidumping Duty Order

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

ACTION: Notice of initiation of anti-circumvention inquiry.

SUMMARY: On the basis of a petition filed with the Department of Commerce, we are initiating an anti-circumvention inquiry to determine whether producers of carbon steel butt-weld pipe fittings from Japan are circumventing the antidumping duty order on carbon steel butt-weld pipe fittings.

EFFECTIVE DATE: October 31, 1994.

FOR FURTHER INFORMATION CONTACT: Donald Little or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1994, the Department of Commerce (the Department) received a petition filed by the U.S. Fittings Group (the petitioner) requesting that the Department conduct an anti-circumvention inquiry on the antidumping duty order on Certain Carbon Steel Butt-Weld Pipe Fittings from Japan (52 FR 4167 (February 10, 1987)). The U.S. Fittings Group is an *ad hoc* trade association of domestic producers of carbon steel butt-weld pipe fittings (pipe fittings) whose members currently consist of Hackney, Inc., Ladish Co., Mill Iron Works, Inc., and Tube Forgings of America, Inc.

Petitioner alleges that unfinished pipe fittings from Japan are being finished in Thailand by Awaji Sangyo (Thailand) Co. (AST), and thereafter imported into the United States free of any antidumping duties. Petitioner asserts that all the elements necessary for an affirmative determination under Section 781(b) of the Tariff Act of 1930, as amended, (the Tariff Act) are present.

The Department received a letter from AST on March 31, 1994, stating that petitioner's request should be denied because unfinished pipe fittings from Japan, as imported by AST, are not included in the scope of the Japanese order.

Initiation of Anti-Circumvention Proceeding

Section 781(b) of the Tariff Act allows the Department to include merchandise within the scope of an existing order if the following conditions are met: (1) The merchandise entering the United States must be of the same class or kind as the merchandise subject to the antidumping duty order; (2) prior to importation into the United States, the merchandise must be completed or assembled in a third country from subject merchandise or merchandise produced in the country subject to the order; and (3) the difference in value of the imported merchandise and the value of such merchandise completed or assembled in a third country must be "small."

Our analysis of petitioner's submission according to the above criteria leads us to conclude that: (1) there is evidence that the merchandise entered into the United States is of the same class or kind as that covered by the Japanese order; (2) there is public evidence that AST imported unfinished pipe fittings from Japan, performed finishing operations, and then exported these finished pipe fittings to the United States; and (3) the difference in value between the imported finished pipe fittings and the unfinished Japanese pipe fittings finished by AST is most likely "small." In addition to the criteria discussed above, the statute also lists other factors to consider in determining whether to include such merchandise in the antidumping duty order. These are: (1) The pattern of trade; (2) whether a relationship exists between the manufacturer or exporter and the third-country assembler of the product; and (3) whether imports into the foreign country of the product have increased after the issuance of the order. Our analysis of the information in the petitioner's submission leads us to conclude that: (1) U.S. import statistics evidence a shift in the pattern of trade subsequent to the Japanese order; (2) there is no relationship between the manufacturer or exporter and the third-country assembler; and (3) the data with respect to any increase of imports into the foreign country are inconclusive. For further analysis, see Memorandum from Joseph A. Spetrini to Susan G. Esserman, dated October 21, 1994. Based on this information, we are initiating an anti-circumvention inquiry on carbon steel butt-weld pipe fittings from Japan, case number A–588–602.

The Department will not suspend liquidation at this time. However, the Department will instruct the U.S. Customs Service to suspend liquidation

in the event of an affirmative preliminary determination of circumvention.

This notice is published in accordance with section 781(b) of the Tariff Act (19 U.S.C. 1677j(b)) and 19 CFR 353.29.

Dated: October 21, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–26887 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–838]

Initiation of Antidumping Duty Investigation: Honey From the People's Republic of China

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

EFFECTIVE DATE: October 31, 1994.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482–4136 or (202) 482–1769, respectively.

Initiation of Investigation

The Petition

On October 3, 1994, we received a petition filed in proper form by members of the American Beekeeping Federation and the American Honey Producers Association. In accordance with 19 CFR 353.12, petitioners allege that honey from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because the petition is filed on behalf of a significant portion of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The products covered by this investigation are natural honey, artificial honey containing more than 50 percent natural honey by weight, and preparations of natural honey containing more than 50 percent natural honey by weight. The subject products include all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The subject merchandise is currently classifiable under subheadings 0409.00.00, 1702.90.50, 2106.90.60, 2106.90.61, 2106.90.65, and 2106.90.69 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

United States Price and Foreign Market Value

United States Price

Petitioners based United States price (USP) on contract prices from a U.S. importer of the subject merchandise from the PRC. In calculating USP, petitioners deducted amounts for the following: U.S. duties, ocean freight, marine insurance, U.S. harbor maintenance fee, U.S. merchandise processing fee, and the Honey Board fee (a U.S. Department of Agriculture assessment on honey or honey used in honey products in the United States).

Foreign Market Value

A. Non-Market Economy Determination

Petitioners contend that the PRC is a non-market economy (NME) country within the meaning of section 771(18)(A) of the Act. The Department has determined in previous investigations that the PRC is an NME, and the presumption of NME status continues for purposes of initiation of this investigation. See *e.g., Final Determination of Sales at Less than Fair Value: Certain Paper Clips from the PRC*, 59 FR 51168 (October 7, 1994) (Paper Clips).

In accordance with section 773(c) of the Act, foreign market value in NME cases is based on NME producers' factors of production, valued in a market economy country. Consistent with Department practice (*see Initiation of Antidumping Duty Investigation: Glycine from the PRC*, 59 FR 38435, July 28, 1994), absent evidence that the PRC government determines which of its beekeepers/processors shall produce for export to the United States, we intend, for purposes of this investigation, to base FMV only on those beekeepers/processors that produced honey sold to the United States during the period of investigation (POI).

In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument related to the issues of the PRC's NME status and granting of separates rates to individual exporters.

B. FMV Calculations

Petitioners calculated FMV on the basis of the valuation of factors of production derived from information developed by a market researcher in India about production processes in India, which petitioners claim are similar to the PRC. Petitioners valued these factors, where possible, based on publicly available published information from India (*see* foreign market research report submitted by petitioners on October 14, 1994, at Exhibit 1). Petitioners argue that India is a country at a comparable level of economic development to the PRC and India is a significant producer of comparable merchandise, thus meeting the requirements of section 773(c)(4) of the Act. For purposes of this initiation, we have accepted India as an appropriate surrogate country selection.

Where Indian values were not available, petitioners valued the factors of production using the U.S. industry's costs, where petitioners determined that this provided a reasonable basis upon which to value such factors.

Petitioners provided FMV calculations based on data associated with two species of bee known to produce honey in the PRC, *i.e.*, the low-yield A. cerana (eastern) honeybee and the high-yield A. mellifera (western) honeybee. Petitioners have provided public information which indicates that each species accounts for approximately one-half of the commercial honey-producing colonies in the PRC (*see* October 14, 1994, submission of petitioners, at p. 8). In accordance with 19 CFR 353.52(a)(2), petitioners' FMV for the two species consisted of the sum of beekeeping costs, processing costs, profit, and packing, and the factors were valued as follows:

- For variable and fixed costs associated with beekeeping operations, as well as processing costs, petitioners used Indian factors of production based on their foreign market research.
- For labor costs associated with beekeeping operations, petitioners relied on Indian factors based on their foreign market research. Petitioner valued labor costs on the basis of

publicly available Indian agricultural wage rates.

- Petitioners added amounts for transportation and land-lease costs associated with high-yield western honeybee beekeeping operations, and valued these based on a U.S. producer's cost-per-pound.
- For profit, petitioners used the profit margins for beekeeping operations contained in their foreign market research, and the statutory minimum of eight percent of the cost of production for processing operations.
- Petitioners added an amount for packing in steel drums based on a U.S. producer's cost per drum.

Based on our analysis of the petition and petitioners' subsequent amendments, we have made certain adjustments to petitioners' FMV calculations as follows:

- We disallowed additional transportation and land-leasing expenses for western honeybee beekeeping because they are based on U.S. costs, and are either inadequately supported or are based on incomplete methodology (*i.e.*, with regard to transportation, petitioners have failed to take into account the increase in yield associated with migratory beekeeping).
- We adjusted beekeeping costs to offset the costs associated with beekeeping services and products other than honey.
- We valued packing costs associated with steel drums using Indian import statistics rather than U.S. costs.
- We have revised the FMV calculation for the eastern bee using a higher yield, as derived from the supporting data for the eastern bee presented in the petitioners' foreign market research.

Fair Value Comparisons

Based on a comparison of USP and FMV, petitioners' alleged dumping margins, as revised by the Department, range from 30.95 to 49.24 percent.

Initiation of Investigation

We have examined the petition on honey and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of honey from the PRC are being, or are likely to be, sold in the United States at less than fair value.

International Trade Commission (ITC) Notification

Section 732(d) of the Act requires us to notify the ITC of this action and we have done so.

Preliminary Determination by the ITC

The ITC will determine by November 17, 1994, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of honey from the PRC. A negative ITC determination will result in a termination of the investigation; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: October 24, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–26894 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–M

Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations

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

ACTION: Notice of Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of November 1994.

EFFECTIVE DATE: October 31, 1994.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Argentina

Barbed Wire and Barbless Fencing Wire
50 FR 46808
November 13, 1985
A–357–405
Contact: Maureen Shields at (202) 482–1690

Singapore

Light-Walled Rectangular Pipe and Tube
51 FR 41142
November 13, 1986
A–559–502
Contact: Maureen Shields at (202) 482–1690

Japan

Certain Small Electric Motors of 5 to 150 Horsepower
45 FR 73723
November 6, 1980
A–588–090
Contact: Bruce Harsh at (202) 482–2667

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of November 1994. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent

certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: October 20, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–26940 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–502]

Intent to Revoke Countervailing Duty Order; Deformed Steel Concrete Reinforcing Bar From Peru

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Intent to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty order on deformed steel concrete reinforcing bar (rebar) from Peru (50 FR 48819; November 27, 1985). Domestic interested parties who object to this revocation must submit their comments in writing not later than the last day of November 1994.

EFFECTIVE DATE: October 31, 1994.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Mercedes Fitchett, 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

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 CFR 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty order on rebar from Peru, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with § 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in §§ 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke this order pursuant to this notice, and no interested party (as defined in § 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty order is no longer of interest to interested parties and proceed with the revocation. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

Opportunity to Object

Not later than the last day of November 1994, domestic interested parties may object to the Department's intent to revoke this countervailing duty order. Any submission objecting to the revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under §§ 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: October 25, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–26889 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–M

Carnegie Mellon University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision 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). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 94–019. *Applicant:* Carnegie Mellon University, 4400 Fifth Avenue, Pittsburgh, PA 15213. *Instrument:* Rapid Kinetics Accessory, Multi-mixing Version, Model SFA-12mx. *Manufacturer:* Hi-Tech Scientific, Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* June 30, 1994.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–26888 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–F

National Jewish Center of Immunology and Respiratory Medicine, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated 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). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–082. *Applicant:* National Jewish Center for Immunology and Respiratory Medicine, Denver, CO 80206. *Instrument:* Mass Spectrometer System, Model API III "Plus." *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* See notice at 59 FR 38439, July 28, 1994. *Reasons:* The foreign instrument provides: (1) triple guadrupole MS, (2) atmospheric pressure articulated ionspray, (3) HPLC flow rates of 5 to 1000 µl per minute, (4) a protein data bank software and (5) more accurate analysis of leukotriene B_4 and platelet activity factor. *Advice Received From:* National Institutes of Health, September 9, 1994.

Docket Number: 94–084. *Applicant:* University of Illinois at Chicago, Chicago, IL 60612. *Instrument:* Stopped Flow Spectrofluorimeter, Model SX-17MV. *Manufacturer:* Applied Photophysics Limited, United Kingdom. *Intended Use:* See notice at 59 FR 38439, July 28, 1994. *Reasons:* The foreign instrument provides a

fluorescence detection capability of 5×10^{-10} M and 25 µl minimum sample volume capability. *Advice Received From:* National Institutes of Health, September 9, 1994.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–26942 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–F

University of Denver, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–070. *Applicant:* University of Denver, Denver, CO 80208. *Instrument:* EPR Spectrometer Upgrade. *Manufacturer:* Bruker Analytische Messentechnik GmbH, Germany. *Intended Use:* See notice at 59 FR 32418, June 23, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated August 22, 1994, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–26941 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–F

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: 94–121. *Applicant:* University of Massachusetts Medical School, 55 Lake Avenue North, Worcester, MA 01655. *Instrument:* Electron Microscope, Model CM 120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of the high resolution molecular structure of muscle filaments, hemoglobin crystals, coated vesicles, and DNA-binding proteins. The experiments conducted will include cryo observations of the above molecules in the frozen-hydrated state. Electron micrographs recorded from these specimens will be subjected to computer assisted image analysis in order to extract the maximum information on each molecule. *Application Accepted by Commissioner of Customs:* October 4, 1994.

Docket Number: 94–122. *Applicant:* Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, MD 20814-4799. *Instrument:* Electron Microscope with Accessories, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of animal and human tissues, viruses, DNA, microorganisms, biomolecules, etc. during medical research. In addition, the instrument will be used for educational objectives to prepare investigators to use it as a research tool. *Application Accepted by Commissioner of Customs:* October 5, 1994.

Docket Number: 94–123. *Applicant:* San Diego State University, Department of Chemistry, 5300 Campanile Drive, San Diego, CA 92182. *Instrument:* MicroVolume Stopped-Flow Analyser, Model SX-17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used to study the kinetic properties of a class of enzymes known as protein kinases. Rapid kinetic measurements of substrate phosphorylation by protein kinases will be obtained using fluorescence and absorption spectroscopy. In addition, the instrument will be used for the education and training of graduate students interested in independent research under the advisory of a principal investigator. *Application Accepted by Commissioner of Customs:* October 11, 1994.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–26943 Filed 10–28–94; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form, and OMB Control Number: Application for Appointment as Reserves of the Air Force or USAF Without Component; AF Form 24; OMB Control Number 0701–0096

Type of Request: Revision

Number of Respondents: 4,500

Responses Per Respondent: 1

Annual Responses: 4,500

Average Burden Per Response: 20 minutes

Annual Burden Hours: 1,500

Needs and Uses: The information collected hereby, enables Air Force application processing activities, and approval authorities, to make determinations regarding applicant eligibility, availability, and selection for appointment in the Reserves of the Air Force, or during times of war or national emergency, as USAF Without Component.

Affected Public: Individuals or households

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Mr. Edward C. Springer

Written comments and recommendations on the proposed

information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 25, 1994.

Patricia L. Toppings,

Alernate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–26829 Filed 10–28–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before November 30, 1994. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Norma M. White, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Ms. White may be telephoned at (202) 254–5327.

SUPPLEMENTARY INFORMATION:

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–511
3. 1902–0069
4. Application for Transfer of License
5. Extension
6. On occasion
7. Mandatory
8. Individuals or households, State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, and small businesses or organizations
9. 23 respondents
10. 1 response
11. 40 hours per response
12. 920 hours
13. To carry out the requirement of Part 1, Sections 4(e) and 8 of the Federal Power Act. These sections direct that a hydroelectric license may be transferred upon application executed jointly by the parties of the proposed transfer and in agreement with the FERC.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, D.C., October 25, 1994.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 94–26922 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG95–4–000, et al.]

Altresco Pittsfield, L.P., et al.; Electric Rate and Corporate Regulation Filings

October 24, 1994.

Take notice that the following filings have been made with the Commission:

1. Altresco Pittsfield, L.P.

[Docket No. EG95–4–000]

On October 11, 1994, Altresco Pittsfield, L.P. ("Altresco"), with its address at One Bowdoin Square, Boston MA 02114, filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Altresco is the lessee and operator of an approximately 165 MW (net) gas-fired cogeneration facility (the "Facility") located in Pittsfield, Massachusetts. The Facility commenced commercial operation in September, 1990. Altresco will sell all of the electric energy produced by the Facility at wholesale. Electric energy produced by the Facility is sold to New England Power Company, Commonwealth Electric Company and Cambridge Electric Light Company.

Comment date: November 14, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Nevada Power Company

[Docket No. EL92–41–002]

Take notice that on September 30, 1994, Nevada Power Company tendered for filing a revised copy of its refund report in the above-referenced docket.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Midwest Power Systems, Inc.

[Docket No. ER94–985–000]

Take notice that on October 5, 1994, Midwest Power Systems, Inc. tendered for filing Amendment No. 2 to the Electric Interchange and Interconnection Agreement with Indianola Waterworks.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER94–1155–000]

Take notice that on October 17, 1994, New England Power Company tendered

for filing an amendment to its April 14, 1994, filing in the above-referenced docket.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. LG&E Power Marketing, Inc.

[Docket No. ER94–1188–002]

Take notice that on October 11, 1994, LG&E Power Marketing, Inc. (LG&E) filed certain information as required by the Commission's August 19, 1994, order in Docket No. ER94–1188–000. Copies of LG&G's informational filing are on file with the Commission and are available for public inspection.

6. Camelot Energy Services

[Docket No. ER94–1457–001]

Take notice that on October 11, 1994, Camelot Energy Services (CES) filed certain information as required by the Commission's September 30, 1994, letter order in Docket No. ER94–1457–000. Copies of CES's informational filing are on file with the Commission and are available for public inspection.

7. Central Maine Power Company

[Docket No. ER94–1669–000]

Take notice that on October 17, 1994, Central Maine Power Company (CMP), tendered for filing supplemental information in support of a Power Purchase Agreement between CMP and Unnamed Subsidiary, under which CMP will purchase and Subsidiary will sell all of the energy and capacity from a 32 MW biomass-fueled generating facility located in the Town of Fort Fairfield, Maine. CMP now provides supplemental information containing a formula for determining the Capacity Charge component of the rate.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER95–37–000]

Take notice that on October 14, 1994, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement between AES Power, Inc. and Virginia Power, dated September 27, 1994, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to AES Power, Inc. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER95–38–000]

Take notice that on October 14, 1994, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement between Ohio Edison and Virginia Power, dated September 20, 1994, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Ohio Edison under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Douglas M. Costle

[Docket No. ID–2855–000]

Take notice that on October 11, 1994, Douglas M. Costle (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director—Niagara Mohawk Power Corporation

Director—Air & Water Technologies Corporation

Comment date: November 10, 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. 94–26862 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. QF86–1014–006 and EL94–27–000]

Newark Bay Cogeneration Partnership, L.P., Notice of Amendment to Filing

October 25, 1994.

On October 20, 1994, Newark Bay Cogeneration Partnership, L.P. (Newark Bay) tendered for filing an amendment to its filing in these dockets.

The amendment pertains to information relating to Newark Bay's Petition For Temporary Waiver of the Commission's Regulations under the Public Utility Regulatory Policies Act of 1978 (PURPA).

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by November 10, 1994, and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestors party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of these submittals are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26860 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL94–83–000]

Ogden Martin Systems of Onondaga Limited Partnership; Notice of Issuance of Order

October 25, 1994.

On August 1, 1994, Ogden Martin Systems of Onondaga Limited Partnership (Ogden) filed a petition seeking waiver of certain of the Commission's regulations. In particular, Ogden requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability

by Ogden. On October 14, 1994, the Commission issued an Order Granting Waiver of Regulations And Denying Refund Request (Order), in the above-docketed proceeding.

The Commission's October 14, 1994 Order granted the request for blanket approval under 18 CFR Part 34, subject to the following conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Ogden should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211, 385.214.

(E) Absent a request to be heard within the period set forth in Order (D) above, Ogden is authorized to issue securities and to assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order and to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Ogden's issuance of securities or assumption of liabilities or by continued holding of interlocks.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 14, 1994. Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94-26857 Filed 10-28-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EG95-3-000, et al.]

Termobarranquilla S.A. (ESP), et al.; Electric Rate and Corporate Regulation Filings

October 21, 1994.

Take notice that the following filings have been made with the Commission:

1. Termobarranquilla S.A. (ESP)

[Docket No. EG95-3-000]

On October 14, 1994, Termobarranquilla S.A., Empresa de Servicios Publicos ("TEBSA") filed with the Federal Energy Regulatory Commission ("Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

In its application, TEBSA states that it is a Colombian corporation formed to develop, finance, refurbish, own and operate the Termobarranquilla Generating Facility (Facility) located near Barranquilla, Colombia. The Facility will consist of the existing plant with a nominal production capacity of approximately 240 MW and approximately 750 MW of new gas-fired combined cycle production capacity. TEBSA is owned by: (1) ABB Energy Ventures Inc., a Delaware corporation, and ABB Power Generation Ltd. of Baden, Switzerland, which are indirect wholly-owned subsidiaries of ABB Asea Brown Boveri Ltd. of Zurich, Switzerland; (2) Energy Initiatives, Inc., a wholly-owned subsidiary of General Public Utilities Corporation; (3) member companies of the Lancaster Distral Group; and (4) CORELCA, a wholly government-owned utility incorporated under the laws of Columbia.

Comment date: November 9, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. PSI Energy, Inc.

[Docket No. ER94-1434-000]

Take notice that PSI Energy, Inc. (PSI), on October 5, 1994, tendered for filing a Certificate of Concurrence between PSI and Enron Power Marketing, Inc. (Enron).

Copies of the filing were served on Enron Power Marketing, Inc., Texas Public Utility Commission and the Indiana Utility Regulatory Commission.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. The Washington Water Power Company

[Docket No. ER94-1652-000]

Take notice that on September 14, 1994, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35, the annual contract rate for the 15-Year Agreement for Purchase and Sale of Firm Capacity and Energy between The Washington Water Power Company (WWP) and Puget Sound Power & Light Company. WWP requests that the Commission accept the Agreement for filing, effective April 1, 1994, and waive the 60-day notice requirement.

A copy of the filing was served upon Puget Sound Power & Light Company.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Maine Yankee Atomic Power Company

[Docket No. ER94-1699-000]

Take notice that Maine Yankee Atomic Power Company, on September 30, 1994, tendered for filing proposed changes in its FPC Electric Service Tariff No. 1. The proposed changes would increase revenues from jurisdictional sales and service annually by $40,000 in 1994 and $28,000 in 1995 based on the 12 month period ending 1993. This is an 0.036% increase over 1993 rates.

Maine Yankee is making a limited Section 205 filing solely for amounts to fund post-retirement benefits other than pensions (PBOPs) pursuant to the requirement of SFAS 106.

Copies of the limited Section 205 filing were served upon Maine Yankee's jurisdictional customers, secondary customers, and Massachusetts Department of Public Utilities, Vermont Public Service Board, Connecticut Public Utilities Control Authority, Maine Public Utilities Commission, New Hampshire Public Utilities Commission and Office of the Public Advocate, State of Maine.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER94-1686-000]

Take notice that on October 17, 1994, Idaho Power Company (Idaho) tendered for filing a Certificate of Concurrence to the Service Agreement under Idaho's FERC Electric Tariff Revised Volume No. 1.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Electric Power Company

[Docket No. FA91-70-001]

Take notice that on October 3, 1994, Southwestern Electric Power Company tendered for filing its refund report in the above-referenced docket.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Delmarva Power & Light Company

[Docket No. FA92–39–001]

Take notice that on October 18, 1994, Delmarva Power & Light Company tendered for filing its refund report in the above-referenced docket.

Comment date: November 3, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Selkirk Cogen Partners, L.P.

[Docket No. QF89–274–011]

On October 18, 1994, Selkirk Cogen Partners, L.P. (Applicant), of Creble Road, County Route 55, Selkirk, New York 12158, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to Applicant, the cogeneration facility is located at the site of General Electric Company's Plastics Operation facility in Selkirk, New York. The Commission originally certified the topping-cycle cogeneration facility in *JMC Selkirk, Inc.*, 48 FERC ¶62,228 (1989), and recertified it in *Selkirk Cogen Partners, L.P.*, 51 FERC ¶61,264 (1990). On June 18, 1990, October 16, 1992, March 10, 1993, and June 16, 1993, Applicant filed notices of self-recertification with respect to Phase I of the facility. The Commission certified the facility with respect to Phase I and Phase II in *Selkirk Cogen Partners, L.P.*, 59 FERC ¶62,254 (1992). On October 16, 1992, March 10, 1993, June 16, 1993, May 2, 1994, and August 25, 1994, Applicant filed notices of self-recertification with respect to Phase I and Phase II of the facility. The instant request for recertification is due to a change in ownership of the facility.

Comment date: Thirty days after publication of this notice in the **Federal Register**, 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, NE., Washington, DC 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. 94–26861 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2009–003 North Carolina]

Virginia Electric & Power Co.; Availability of Scoping Document

October 25, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order 486, 52 FR 47897, December 17, 1987), the Office of Hydropower Licensing has undertaken preparation of an Environmental Impact Statement (EIS) for the application for Non-project Use of Project Lands and Waters at the Gaston and Roanoke Rapids Project (FERC No. 2009), located on the Roanoke River. The proposed water intake and pipeline would be located in Brunswick, Greenville, Sussex, Southhampton and Isle of Wight Counties, Virginia.

On July 1, 1994, the Commission issued a Notice of Intent to Prepare an EIS and to conduct Scoping Meetings. Public scoping meetings were held at the following dates and locations:

- July 14, 1994, Scoping Meeting held in Raleigh, NC.
- July 18, 1994, Scoping Meeting held in South Hill, VA.
- July 20, 1994, Scoping Meeting held in Virginia Beach, VA.

The period for providing written comments on scoping closed on August 19, 1994. Comments on scoping were received from federal, state, and local government entities, private organizations, and individuals. At this time, the process of reviewing and analyzing comments received during scoping is complete.

As part of the process of scoping the EIS, the Office of Hydropower Licensing has produced a Scoping Document Two (SD2). The SD2 summarizes the following elements: the scoping process, scoping comments received during public meetings, and scoping comments received from written testimony. Further, the SD2 provides a general overview of issues that will be evaluated in the EIS as well as issues that do not warrant further evaluation. The SD2 also includes a schedule for issuing the draft EIS and final EIS.

Copies of the SD2 are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, DC 20426.

For further information, please contact Steve Edmondson at (202) 219–2653.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26846 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–17–000]

Algonquin Gas Transmission Co.; Notice of Changes Proposed in FERC Gas Tariff

October 25, 1994.

Take notice that on October 21, 1994, Algonquin Gas Transmission Company (Algonquin) submitted for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, effective November 20, 1994:

Sixteenth Revised Sheet No. 20A
Original Sheet No. 94E
First Revised Sheet No. 706
First Revised Sheet No. 707

Algonquin states that the purpose of this filing is to (i) update Algonquin's direct transition cost recovery mechanism to reflect the allocation proportions established pursuant to Algonquin's Commission-approved March 1, 1994, Stipulation and Agreement in Docket Nos. RP93–14–000, et al. and (ii) allocate additional charges under the stipulated allocation.

Algonquin states that copies of its filing were mailed to all customers, interested State Commissions, and all parties to the above captioned dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 1, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26856 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

Docket No. RP95–16–000]

Florida Gas Transmission Co.; Notice of Compliance Filing

October 25, 1994.

Take notice that on October 21, 1994, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with a proposed effective date of December 1, 1994:

Sixth Revised Sheet No. 8B
First Revised Sheet No. 8D
Second Revised Sheet No. 18
Third Revised Sheet No. 46A
Second Revised Sheet No. 47
First Revised Sheet No. 206
Fifth Revised Sheet No. 207

FGT states that it is proposing tariff provisions modifying fuel retainage for its Western Division transportation services. Specifically, FGT is proposing to modify its FTS–1 and ITS–1 Rate Schedules to provide that FGT will charge Western Division forwardhaul shippers a fuel percentage based on the number of compressors utilized in providing the service. FGT states that it believes this modification is necessary to make FGT's Western Division service competitive with other transporters.

FGT's FTS–1 and ITS–1 Rate Schedules provide that FGT may charge individual shippers for Western Division transportation service less than the maximum rates set forth on the currently effective Sheet No. 8B applicable to such service. FGT states that it has routinely discounted its maximum facility and service charges for Western Division transportation to compete with the large number of interestate and intrastate pipelines operating in the area served by FGT. Many potential Western Division transportation opportunities involve "short hauls" on FGT's supply area laterals and mainline that require the use of little, if any, compression. However, operation of the provisions of the Fuel Reimbursement Charge of Section 27 of FGT's General Terms and Conditions would result in FGT absorbing any discount of the Fuel Reimbursement Charge. These provisions would result in FGT losing money on almost any transaction where FGT discounted fuel.

Therefore, FGT is proposing to modify its Fuel Reimbursement Charge to provide that Western Division transportation service will be charged a fuel retainage percentage on a per compressor basis.

Specifically, FGT is proposing a Western Division fuel percentage of 0.50% per compressor up to a maximum percentage not to exceed the effective maximum Fuel Reimbursement Charge as defined in Section 27 of FGT's General Terms and Conditions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 1, 1994. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. 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. 94–26855 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2375–ME]

International Paper Company; Notice of Intent To File an Application for a New License

October 25, 1994.

Take notice that International Paper Company, the existing licensee for the Riley, Jay, and Livermore Falls Project No. 2375, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2375 was issued effective October 1, 1950, and expires September 30, 1999.

The project is located on the Androscoggin River in Franklin, Oxford and Androscoggin Counties, Maine. The principal works of the Riley, Jay, and Livermore Falls Project include three dam and reservoir developments: Riley with an L-shaped concrete-capped rock-filled timber crib dam about 649 feet long, a 578 acre reservoir at elev 374.92 ft USGS, and a powerhouse with an installed capacity of 7,800 Kw; Jay with a concrete gravity dam 893 feet long, a 206 acre reservoir at elev 354 ft USGS, and a powerhouse with an installed capacity of 3,125 Kw; and Livermore Falls with an L-shaped concrete dam 849 feet long, a 46 acre reservoir at elev 312.6 ft USGS, and a powerhouse with an installed capacity of 8,615 Kw; all have transmission line connections and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at International Paper Company, Androscoggin Mill, Riley Road, Environmental Affairs Building, Jay, Maine 04239.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26847 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–31–000]

NorAm Gas Transmission; Notice of Request Under Blanket Authorization

October 25, 1994.

Take notice that on October 21, 1994, NorAm Gas Transmission (NorAm), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–31–000 a request pursuant to Sections 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 tap for service to ARKLA, a division of NorAm Energy Corp. (ARKLA), in Logan County, Arkansas, under NorAm'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.

NorAm proposes to install the tap on its Line BT–14 for ARKLA to make deliveries to a single customer in Logan County. It is stated that deliveries through the proposed tap would be 1 MMBtu equivalent on a peak day and approximately 85 MMBtu equivalent on an annual basis. It is estimated that the cost of construction would be $1,400, for which NorAm would be reimbursed by ARKLA. It is asserted that NorAm has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers and

that NorAm's tariff does not prohibit the addition of new delivery points. It is further asserted that the deliveries would be within ARKLA's certificated entitlement from NorAm.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protect 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. 94–26851 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1633–000]

Northern States Power Co.; Notice of Filing

October 25, 1994.

Take notice that October 14, 1994, Northern States Power Company (Minnesota) (NSP) tendered for filing an Amendment to Connection Agreement No. 53 between NSP and Cooperative Power Association (CPA).

NSP has filed this amendment to clarify that the in-service date was September 9, 1994, rather than the tentative date which was stated in our original filing, September 14, 1994. Accordingly, NSP hereby submits its request that the Commission accept this Agreement for filing as of the in-service date of September 9, 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 November 7, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26858 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8277 Maine]

Otis Hydroelectric Co.; Notice of Intent To File an Application for a New License

October 25, 1994.

Take notice that Otis Hydroelectric Company, the existing licensee for the Otis Hydroelectric Project No. 8277, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 8277 was issued effective September 19, 1984, and expires September 30, 1999.

The project is located on the Androscoggin River in Franklin and Androscoggin Counties, Maine. The principal works of the Otis Project include an L-shaped dam with a concrete gravity section about 379 feet long topped with flashboards, a stone masonry/concrete headgate structure about 189 feet long, a concrete wall about 198 feet long extending downstream, a concrete forebay wall 95 feet long, and a powerhouse headworks structure; a 115 acre reservoir at elev 339.5 ft USGS; a powerhouse containing two generators with a total installed capacity of 10,000 Kw; a transformer and overhead transmission line connection to International Paper Company's Androscoggin Mill; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at International Paper Company, Androscoggin Mill, Riley Road, Environmental Affairs Building, Jay, Maine 04239.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26848 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG91–7–000]

Ozark Gas Transmission System; Notice of Filing

October 25, 1994.

Take notice that on July 8, 1994, Ozark Gas Transmission System (Ozark) made a filing, under protest, in the above-captioned docket concerning its compliance with Order Nos. 497 *et al.*[1] Specifically, Ozark modified its Standard E, 18 CFR 161.3(e) (1994), on July 8, 1994, in response to a Commission order issued on June 23, 1994.[2]

Ozark states that copies of this filing were served upon all parties on the official service list compiled by the Secretary of the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 or 385.214). All such motions to intervene or protest should be filed on or before November 9, 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. 94–26896 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

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[1] Order No. 297, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

[2] 67 FERC ¶ 61,381 (1994).

[Docket No. MG91–7–008]

Ozark Gas Transmission System; Notice of Filing

October 25, 1994.

Take notice that on July 8, 1994, Ozark Gas Transmission System (Ozark) made a filing, under protest, in the above-captioned docket concerning its compliance with Order Nos. 497 *et al.*[1] Specifically, Ozark modified its Standard E, 18 CFR 161.3(e) (1994), on July 8, 1994, in response to a Commission order issued on June 23, 1994.[2]

Ozark states that copies of this filing were served upon all parties on the official service list compiled by the Secretary of the Commission.

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 or 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before November 9, 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. 94–26852 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30, 996 (June 17, 1994).

[2] 67 FERC ¶ 61,381 (1994).

[Docket Nos. RP94–67–012, RP94–133–005 and RP94–165–005]

Southern Natural Gas Co., Notice of Technical Conference

October 25, 1994.

In the Commission's letter order issued on September 20, 1994, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. Those issues center on the proper allocation of GSR costs between Atlanta Gas Light Company and Chattanooga Gas Company, on the one hand, and certain end users located behind their city gates.

The conference to address the issues has been scheduled for Thursday, November 17, 1994, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26854 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP88–391–015 and RP93–162–003]

Transcontinental Gas Pipe Line Corp.; Notice of Refund Report

October 25, 1994.

Take notice that on October 11, 1994, Transcontinental Gas Pipeline Corporation (TGPL) filed a report of refunds covering its third annual cash-out period which ended July 31, 1994. The Refund report was filed to comply with the cash out provisions in Section 15 of the General Terms and Conditions of TGPL's FERC Gas Tariff. Section 15 provides that TGPL's cash-out and Pipeline Interconnect Balancing Agreement (PIBA) revenues received in interruptible transportation customers on a pro rata basis based on transportation volumes delivered during the annual period ending July 1, 1994.

TGPL states that the report shows that on October 7, 1994, TGPL made refunds totaling $3,066,214.40 to certain jurisdictional customers and made credits totaling $24,384.60 against outstanding receivables of other jurisdictional customers, for total refunds of $3,090,599.00.

Pursuant to the requirements of the Commission's order issued December 3, 1993 in Docket No. RP93–162–002, TGPL also submitted a summary of activity showing the volumes and amounts paid under each PIBA during the initial PIBA period ending July 31, 1994.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and procedure (18 CFR 385.211). All such protests should be filed on or before November 1, 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 party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cahsell,

Secretary.

[FR Doc. 94–26850 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–137–018]

Williston Basin Interstate Pipeline Co.; Notice of Filing Revised Tariff Sheets

October 25, 1994.

Take notice that on October 19, 1994, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its current FERC Gas Tariff and Original Volume No. 1–A of its obsolete FERC Gas Tariff.

The proposed effective date for these tariff sheets is November 1, 1994.

Williston Basin states that the revised tariff sheets are being filed, under protest, pursuant to the Commission's September 19, 1994, Order in the above referenced dockets to adjust the currently effective Take-or-Pay Throughput Surcharges to make itself whole for the refund of certain throughput surcharge amounts previously collected from Western through the transportation rates charged for the gas placed in storage in accordance with a Rate Schedule S–2 Service Agreement between Williston Basin and Western.

Williston Basin further states that the revised tariff sheets reflect the elimination of the valumetric surcharge from such service under Rate Schedule S–2. The instant filing reflects a revised total throughput surcharge of 20.231 cents per dkt on all applicable transportation volumes.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E.,

Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and procedure (18 CFR 385.211). All such protests should be filed on or before November 1, 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 party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Scecretary.

[FR Doc. 94–26853 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–40–000]

Wisconsin Public Service Co.; Notice of Filing

October 25, 1994.

Take notice that on October 17, 1994, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Heartland Energy Service, Inc. under its CS–1 Coordination Sales Tariff. Wisconsin Public Service requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms. Wisconsin Public Service also tendered for filing an amendment that adds Heartland to its list of potential purchasers under the tariff.

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.W., 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 November 7 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26859 Filed 10–28–94; 8:45 am]

BILLING CODE 6717–01–M

Office of Civilian Radioactive Waste Management

Proposed Scope of Task for the National Academy of Sciences (NAS) Board on Radioactive Waste Management (BRWM) for Peer Review of the Technical Bases for the Suitability Evaluation Process

AGENCY: Office of Civilian Radioactive Waste Management (OCRWM), Energy.

ACTION: Notice of inquiry.

SUMMARY: Through this Notice of Inquiry (Notice) and as part of the on-going process of public participation in the development of the Site Suitability Evaluation Process begun in an April 1994 **Federal Register** Notice (59 FR 19680), the Department of Energy (DOE) desires to elicit the views of members of the general public on the proposed methodology for utilizing the National Academy of Sciences (NAS) Board on Radioactive Waste Management (BRWM) for implementation and management of peer reviews of the technical bases for the suitability evaluation process. The DOE is committed to ensuring the quality of its technical work. One approach to ensuring technical quality is the use of an independent, impartial peer review for the technical work. To ensure a peer review that is independent, impartial, and of the highest technical quality, the DOE intends to request that the (BRWM): (1) Oversee the required peer reviews, including setting up the review committees and (2) establish a standing committee to review OCRWM's analysis of long term repository performance.

DATES: Written comments on the draft methodology for peer review are due on or before November 30, 1994.

ADDRESSES: Written comments should be submitted to: Dr. Jane R. Summerson, U.S. Department of Energy, Yucca Mountain Site Characterization Office, 101 Convention Center Drive, Las Vegas, NV 89109. (Phone) (702) 295–9610 (Fax) (702) 794–7907.

FOR FURTHER INFORMATION CONTACT: Dr. Jane R. Summerson, U.S. Department of Energy, Yucca Mountain Site Characterization Office, 101 Convention Center Drive, Las Vegas, NV 89109, (702) 295–9610 (Phone), (702) 794–7907 (Fax).

SUPPLEMENTARY INFORMATION:

I. Background

OCRWM has proposed a restructured repository program consistent with the recent Fiscal Year 1995 Administrative Funding Proposal. Under the program site characterization and engineering activities would focus initially on the evaluation of the suitability of Yucca Mountain. Because the broad credibility of the suitability determination is so critical to the success of the program, DOE proposes to make a technical determination of suitability as an independent program milestone as the result of an incremental and open process that features rigorous, independent external peer review of the technical work and focused, effective public involvement.

The proposed suitability evaluation process calls for the separate and sequential evaluation of individual technical issues or groups of related technical issues. Evaluations of technical issues would be conducted as site characterization data and analyses become available. For each issue or group of issues, DOE would first develop the technical basis that will be used for the assessment of regulatory compliance. DOE desires to have peer reviews of the manner in which scientific information has been collected, analyzed and interpreted in the development of the technical bases. Toward this end, DOE proposes to contract with the NAS to manage a process of external expert peer review of this aspect of the technical bases. This approach would address only the technical or scientific analyses and not address regulatory compliance.

II. Proposed Methodology

A. Oversee the Required Peer Review Process

OCRWM considers the peer review process to have three important steps: (1) Select the peer review committees (2) manage the peer reviews, and (3) oversee development of the peer review reports.

(1) Select the peer review committee: For a peer review of a given technical basis report, the BRWM would determine the expertise needed and the size of the committee, establish and make available to the public minimum qualifications for peer reviewers, solicit nominations for qualified peer reviewers from the public, and recommend a slate of nominees for selection through the established National Research Council process, including the following: Minimize the potential for bias on the review committee; ensure that diverse scientific views on the technical issues central to the material are encompassed; consider minority representation and geographic sensitivities including the unique interest the citizens of Nevada have in the process; and ensure the availability of committee members to meet a

predetermined schedule. The BRWM would be prepared to discuss with the public how the process addresses these concerns.

The size and technical composition of the committee would be determined by the BRWM according to the nature and complexity of the information to be reviewed. To the extent possible, peer review committees would be established well in advance of the availability of the documents for review.

DOE would provide recommendations regarding the size of the peer review committees and length of time required for each review, but the BRWM shall make the final decisions of these parameters within the following limits: Maximum committee size—ten members, maximum time to deliver peer review report—six months.

(2) Manage the review: Reviewers would evaluate the validity of the data and interpretations and the adequacy of the treatment of uncertainties in describing the current state of understanding. Reviewers would address, at a minimum the following questions: (a) Has the data been collected and analyzed in a technically acceptable manner? (b) Does the data, given the associated error and analytical and conceptual uncertainties, support the technical interpretations and conclusions made within the report? (c) Are there credible alternative interpretations that would significantly alter the conclusions reached? (d) What testing, if any, would discriminate between alternative technical interpretations? (e) If such testing is recommended, how effective would it be at reducing significant uncertainties?

In accordance with BRWM policy, all interactions between the peer review committees, report authors and OCRWM would occur in open session and all documents submitted to the committees would be publicly available. The review committee would request that the public provide information on relevant technical issues that they determine should be brought to the attention of the committee. As is standard practice for National Research Council committees, however, Executive Sessions of the committee, when only committee members and NAS staff are present, may precede and/or follow all public meetings. In these sessions the committee would attend to internal administrative and "housekeeping" details, deliberations and discussions about the issues and information, plans for future meetings, development of report outlines, and writing of the reports. On occasion, full-day executive session meetings would take place. No private meetings with federal, state, or other parties external to the NAS would ever be held. This is standard practice for the BRWM.

The length of time required for peer review would depend on the nature and complexity of the information being reviewed. Because OCRWM is accountable for measurable progress, all reviews would be completed in four to six months.

(3) Oversee development of the report: The report would include responses to the five questions listed in (2) above, and relevant technical issues raised by the public. The BRWM would advise the committee to avoid or at least to differentiate between recommendations for additional technical work that is not justified by a reduction of uncertainty, and recommendations that are not purely technical such as recommendations that relate to DOE policy, management or decisions. Reports would be reviewed through the usual NAS independent blind-review process.

B. Establish a Standing Review Committee for OCRWM's Assessments of Postclosure Performance of the Repository

The relevant analyses of repository performance produced in the next several years are expected to be complex and lengthy and to cross-cut many technical disciplines. For this reason, a standing peer review committee would be formed to (1) review all analysis work as it progresses, (2) review the analysis that would be the primary basis for DOE assessment of conformance with the postclosure system guidelines and (3) review conclusions on qualifying conditions of the postclosure technical guidelines that are inextricably linked to the conclusion on system performance.

C. Proposed Schedule for Initiating Peer Review of the Technical Basis Reports

The schedule for initiating peer reviews is as follows:

(1) Surface Processes—TBD/95

(2) Interim analysis of long-term system performance I[1]—9/95

(3) Preclosure Rock Characteristics—4/96

(4) Tectonics—10/96 or

(4a) Volcanic Hazard—3/96

(4b) Seismic Hazard—10/96

(5) Geochemistry/Postclosure Rock Characteristics—5/96

(6) Interim analysis of long-term system performance II[1]—10/96

(7) Geohydrology/Transport—2/97

(8) Preclosure Radiological Safety[2]—8/97

(9) Final analysis of long-term system performance[1]—11/97

Issued in Washington, D.C., October 26, 1994.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 94–26923 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–M

[1] This includes the TSPA for the postclosure total system guideline and postclosure qualifying conditions guidelines evaluations. The standing peer review must be initiated ahead of this review.

[2] Includes meteorology, population density and distribution, offsite installations, and site ownership and control.

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of August 22 Through August 26, 1994

During the week of August 22 through August 26, 1994, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Brian P. Conlon, 8/25/94, *LFA–0400*

Brian P. Conlon filed an Appeal from a determination issued by the Idaho Operations Office (Idaho) of the Department of Energy (DOE) in response to a request from Mr. Conlon under the Privacy Act (Privacy Act). Mr. Conlon sought copies of investigative material contained in the Personnel Security Clearance System of Records. In considering the Appeal, the Office of Hearings and Appeals found that the Privacy Act Officer properly withheld the information contained in a "system of records," the release of any part of which would reveal the identity of a confidential source. Accordingly, the Appeal was denied.

Dr. Robert Sanchez, 8/26/94, *LFA–0407*

Dr. Robert Sanchez filed an Appeal from a determination issued to him by the Albuquerque Operations Office (AOO) of the Department of Energy (DOE). The determination partially denied a Request for Information which Dr. Sanchez submitted under the Freedom of Information Act. Dr. Sanchez requested various documents relating to Solicitation for Offers No. TU–0050 (SFO) and an amendment to that solicitation. In its determination letter, the AOO provided Dr. Sanchez various documents responsive to his Freedom of Information Act request.

However, Dr. Sanchez, in his Appeal, argued that additional responsive documents must exist because of various requirements listed in the SFO. In considering the Appeal, the DOE found that an adequate search had been conducted in response to Dr. Sanchez's request. Accordingly, Dr. Sanchez's Appeal was denied.

National Security News Service, 8/22/92, *LFA–0402*

The National Security News Service (NSNS) filed an Appeal from a determination issued by the Deputy Assistant Secretary for Military Application and Stockpile Support, Defense Programs (DP), in response to a request for information under the Freedom of Information Act (FOIA). NSNS sought documents relating to "Exercise Midnight Trail," a 1991 military training exercise sponsored by the Department of Defense (DOD). In considering the Appeal, the DOE found that: (1) DP properly invoked Exemption 6 in withholding the names of individuals and identifying information from documents released to NSNS because the privacy interests of the individuals outweighed the minimal contribution of disclosure to the public understanding of government operations and activities; (2) DP did not provide a sufficient basis for its application of Exemption 6 to the other information withheld from the appellant; and (3) DP's search for responsive documents should have included the DOE's Albuquerque Operations Office (DOE/AL). In addition, DP agreed to forward the appellant's request to seven other offices at DOE Headquarters. The matter was therefore remanded to DP for a new determination releasing the information not protected by Exemption 6 or providing additional justification for its withholding, and providing to NSNS responsive documents located at DOE/AL and the other DOE Headquarters offices. In all other respects, the Appeal was denied.

William H. Payne, 8/22/94, *LFA–0405*

William H. Payne (Payne) filed an Appeal from two determinations issued to him on July 26, 1994, by the Deputy Director, Office of Intergovernmental and External Affairs (Authorizing Official). In those determinations, the Authorizing official denied requests for information submitted by Payne under the Freedom of Information Act (FOIA). In the first determination, the Authorizing Official denied Payne's request for documents. In the second determination, the Authorizing Official denied a request for a waiver of fees in connection with another series of FOIA requests that Payne filed. In his Appeal, Payne challenged the adequacy of search conducted by the Office of Intergovernmental and External Affairs. He also asked that the Office of Hearings and Appeals reverse the second determination, and grant him a fee waiver. In considering the Appeal, the DOE found that Payne's request for documents was subjected to a search sufficient to meet the established standard of reasonableness. The DOE also found that Payne did not demonstrate that he was entitled to a fee waiver since he did not show that disclosure of the requested information was in the public interest. Accordingly, Payne's Appeal was denied.

Requests for Exception

Farmco, Inc., 8/23/94, *LEE–0125*

Farmco, Inc., (Farmco) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought temporary relief from filing Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The DOE determined that a limited form of exception relief—to extend until September Farmco's filing deadline for the Forms for the months of May and June—would be appropriate. However, Farmco had filed the forms before a Decision had been issued. Accordingly, the Application for Exception was consequently dismissed.

Kadane Corporation, 8/24/94, *LEE–0103*

Kadane Corporation filed an Application for Exception from the requirement that it file Form EIA–23, the "Annual Survey of Domestic Oil and Gas Reserves." Kadane Corporation claimed that it lacked the necessary technical personnel to provide the information requested in Form EIA–23 and that it no longer obtains that information for its own purposes. In considering the request, the DOE found that there were no technical personnel required to complete the form other than those already employed by Kadane. The DOE also concluded that the firm was not suffering a serious hardship and was not adversely affected by the reporting requirement in a way that was significantly different from the burden borne by similar reporting firms. Therefore, the DOE denied Kadane Corporation's Application for Exception.

Remedial Order

Economic Regulatory Administration, 8/23/94, *LCX–0012*

The DOE issued a Decision and Order modifying a 1987 Remedial Order issued to Storey Oil Company, Inc. *See Storey Oil Co., Inc.*, 16 DOE ¶ 83,007 (1987) (1987 RO). The 1987 RO had been remanded by the Federal Energy Regulatory Commission (FERC) for a recalculation of the retail overcharges based on new evidence introduced in the FERC proceeding. *See Storey Oil Co., Inc.*, 65 FERC ¶ 61,216 (1993). In response to the remand, the DOE's Economic Regulatory Administration submitted a recalculation of the retail overcharges for inclusion in a modified Remedial Order. In considering the ERA's recalculation, the DOE rejected Storey's various arguments in opposition to the issuance of a revised remedial order, including Storey's argument that the recalculation was inconsistent with the reseller-retailer price rule, l 10 CFR 212.93. Accordingly, the DOE modified the 1987 RO to reduce the retail overcharges from $61,071.48 to $47,549.90.

Refund Applications

Enron Corporation/Aristech Chemical Corporation, 8/24/94, *RF340–152*

Aristech Chemical Corporation (Aristech) submitted an application for refund in the Enron Corporation refund proceeding. The DOE determined that Aristech had acquired the assets, including the right to refund, of USS Chemicals. The DOE found that USS Chemicals used Enron propane as a feedstock to produce certain olefins, primarily ethylene, and therefore that Aristech was entitled to a refund for USS Chemical's purchases from Enron under the presumption of injury for end-users of Enron products. The total refund granted to Aristech, including interest, is $820,193.

Enron Louisiana Energy Co., 8/26/94, *RF272–92434*

The DOE issued a Decision and Order concerning the Application for Refund of Enron Louisiana Energy Co. in the Subpart V crude oil overcharge refund proceeding. The Application for Refund was based on purchases of petroleum products the applicant used in the processing of natural gas liquid products (NGLPs). Enron failed to prove it was injured by crude oil overcharges because it made no demonstration that it was unable to pass on those overcharges to its customers in its sales of NGLPs. Accordingly, the Application for Refund was denied.

Texaco, Inc./J&J Oil Co., Inc., 8/22/94, *RF321–7211*

The DOE issued a Decision and Order concerning an Application for Refund filed by J&J Oil Co., Inc. (J&J), a petroleum products reseller, in the Texaco, Inc. special refund proceeding. J&J requested a refund above the

volumetric presumption level of $0.0011 per gallon on the grounds that it had been disproportionately overcharged by Texaco during the refund period. In considering the firm's claim, the DOE found that J&J was likely overcharged by Texaco in the amount of $0.02778 per gallon of propane purchased during the period September 1, 1973 through December 31, 1978. This determination was based upon the findings in a Remedial Order issued to Texaco. Although the total amount of the likely overcharges was $193,277, the DOE found that the firm's maximum potential refund was $21,440 since its banks of increased costs indicated that it had passed through the remainder of the overcharges. The firm also established through the competitive disadvantage methodology that it was injured by Texaco's likely overcharges. The DOE also determined that the interest that accrued on the likely overcharges prior to the effective date of the Texaco Consent Order should be considered in determining J&J's refund. After prorating the firm's maximum potential refund plus pre-settlement interest by the ratio which the Texaco consent order amount bears to the aggregate overcharge amount alleged by the DOE in all enforcement proceedings settled by the Texaco Consent Order, the DOE found that J&J is entitled to a refund of $67,895 (including a pro rata share of the interest that has accrued since the Texaco settlement funds were deposited with the DOE).

J.E. Dewitt, Inc., 8/23/94, *RF321–17022*

The DOE issued a Decision and Order concerning an Application for Refund filed in the Texaco Inc. special refund proceeding on behalf of J.E. Dewitt, Inc. (Dewitt), a reseller of Texaco products. Dewitt sought a refund equal to 60 percent of its full allocable share based on its purchases of Texaco motor gasoline. In support of its claim of injury above the medium-range presumption level, the firm submitted reconstructed cumulative banked gasoline costs. However, rather than demonstrating inquiry by the competitive disadvantage methodology, as would typically be the case, the firm attempted to show that it failed to achieve a historic profit margin based on its average margin in 1971. The DOE determined that Dewitt's inability to sell gasoline at its 1971 margin during a portion of the refund period may have resulted from a variety of factors unrelated to Texaco's alleged overcharges. Thus, Dewitt's profit margin data did not constitute a conclusive showing of injury. However, because the evidence did not show that the firm was not injured, Dewitt was granted a refund based on the medium-range presumption of injury.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Anheuser-Busch, Inc	RF272–92419	08/22/94
City of Espanola	RR272–115	08/24/94
Coleman Company Heating & Air-Conditioning	RF272–67180	08/24/94
Coleman Company Material Services	RF272–67181	
Gulf Oil Corporation/Crescent Refining & Oil Co	RF300–13473	08/22/94
Gulf Oil Corporation/Decatur County Board of Commissioners et al	RF300–21332	08/24/94
Gulf Oil Corporation/Lyday's Gulf Service	RF300–16069	08/22/94
Gulf Oil Corporation/Waterman & Sons, Inc	RF300–20146	08/24/94
Gulf Oil Corporation/Wilcox & Holt Corporation	RF300–16108	08/23/94
Olathe Potato Growers Co-op et al	RF272–94810	08/26/94
Sause Bros. Ocean Towing Co., Inc	RF272–90161	08/26/94
Southside Farm Supply	RC272–251	08/25/94
Testers Inc. et al	RF272–93614	08/25/94
Texaco Inc./Elf Asphalt, Inc	RF321–19942	08/26/94
Bituminous Materials, Inc	RF321–21017	
Riffe Petroleum Co	RF321–21018	
Thorn EMI Malco, Inc. et al	RF272–92407	08/26/94

Dismissals

The following submissions were dismissed:

Name	Case No.
A.W. Logan, Inc	RF272–69297
Alvin Hollis & Co., Inc	RF321–20055
Clarke County Board of Commissioners	RF272–97037
Dawn Fuel, Inc	RF300–20879
Ermis Texaco	RF321–16338
Leo's Texaco	RF321–19342
Liebermans Service Center, Inc	RF321–19603
Lottie Gulf	RF300–20831
Louisiana-Pacific Corp	RF321–20039
Pro Fuels, Inc	LEE–0124
Seibertis Service Stations	LEE–0140
Town of Leicester Highway Department	RF272–97043
Unified School District 307	RF272–97022
Wilson of Wallingford, Inc	RF321–20050

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a

commercially published loose leaf reporter system.

Dated: October 25, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–26920 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders; Week of September 12 Through September 16, 1994

During the week of September 12 through September 16, 1994 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

David W. Loveless, 09/13/94, LFA–0410

David W. Loveless filed an Appeal from a determination issued by the Robotics Technology Development Program (Robotics Program) of the DOE's Office of Technology Development in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Mr. Loveless sought information regarding the Westinghouse Idaho Nuclear Company (WINCO) Remote Tank Inspection (RTI) robot, as well as other Westinghouse robotics programs. In considering the Appeal, the DOE found that there was an inadequate search for materials. Accordingly the Appeal was granted and the request was remanded for a further search.

William D. Lawrence, 09/14/94, LFA–0409

William D. Lawrence filed an Appeal from a determination issued to him by the Deputy Director of the Office of Intergovernmental Affairs of the DOE's Albuquerque Operations Office (Albuquerque Operations) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Albuquerque Operations had withheld in its entirety an Equal Employment Opportunity (EEO) counseling file under the deliberative process privilege of Exemption 5 and under Exemption 6 of the FOIA.

In considering the Appeal, the DOE found that most of the withheld material contained little or no deliberative material. Accordingly, the DOE found that this material could not be withheld pursuant to Exemption 5 without some further justification and reference to the policies articulated in the 1993 Memorandum of Attorney General Janet Reno concerning the FOIA. The DOE did find that some of the material related to a potential settlement was correctly withheld under the "executive" privilege of Exemption 5. In considering withholdings under Exemption 6, the DOE found that Albuquerque Operations had correctly withheld the identities, personal identifiers (such as names, home addresses, phone numbers, and social security numbers), and information which would identify the EEO Complainant and witnesses on the grounds that such information would be a clearly unwarranted invasion of personal privacy without any offsetting public interest. The DOE determined that Albuquerque Operations should either release the remaining material or explain the basis for withholding. Finally, the DOE agreed with Albuquerque Operations that the EEO Counselor notes were, in this case, not "agency records" because they were not placed in DOE files nor shown to other DOE personnel and were kept or destroyed at the sole discretion of the EEO Counselor. Accordingly, the Appeal was granted in part, denied in part, and remanded to Albuquerque Operations for a new determination in accordance with the guidance set forth in the Decision and Order.

Implementation of Special Refund Procedures

Sunset Boulevard Car Wash, 09/12/94, LEF–0112

The DOE issued a Decision and Order implementing procedures for the distribution of $52,093.73, plus accrued interest, in alleged overcharges obtained from Sunset Boulevard Car Wash (Sunset). These funds were remitted by Sunset to the DOE to settle possible pricing violations with respect to Sunset's sales of refined petroleum products during the period August 1, 1979 through January 27, 1980. The DOE determined that the funds will be distributed in accordance with the DOE's Subpart V refund procedures. Applications for Refund will be accepted from customers who purchased controlled refined petroleum products from Sunset during the period covered by the settlement. The specific information to be included in the Applications for Refunds, which must be submitted by June 1, 1995, is included in the Decision.

Refund Application

Charter Company/California, 09/15/94, RM23–270

The DOE issued a Decision and Order granting a Motion for Modification filed by the State of California in the Charter Company second stage refund proceeding. In its Motion, California proposed to reallocate $850,000 of previously disbursed Charter monies to fund four transportation-related energy conservation projects. In accordance with prior Decisions, where we have noted the benefits of similar plans involving public transit and traffic synchronization systems, the DOE approved California's Motion.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Dennis Arco et al	RF304–13375	09/14/94
Atlantic Richfield Company/Harry Crosby et al	RF304–13641	09/12/94
Bloomington School District 87 et al	RF272–79369	09/12/94
Corinth S.A.D. #64 et al	RF272–95500	09/15/94
Enron Corp./Tower Bottled Gas	RF340–56	09/13/94
Young Oil Company, Inc	RF340–176	
Rod Steinheiser Bottle Gas	RF340–187	
Ford County et al	RF272–97007	09/16/94
Gulf Oil Corporation/Bobis Gulf et al	RF300–16659	09/15/94
Gulf Oil Corporation/Glen-Gery Corp. et al	RF300–20347	09/14/94
Illinois Power Company	RF272–90781	09/12/94
Georgia Power Company	RF272–93007	
Longyear Company et al	RF272–94710	09/15/94
Munday Pontiac et al	RF272–93623	09/15/94
Texaco Inc./Couch Texaco	RF321–20113	09/14/94

Viviano's Texaco Station #2	RF321–21030	
Texaco Inc./Steve's Texaco Service et al	RF321–20202	09/14/94
Steve's Texaco Service	RR321–162	

Dismissals

The following submissions were dismissed:

Name	Case No.
Anacortes Van & Storage	RF272–94610
Capital International Airways	RF272–90496
Central State Hospital	RF272–88891
Champion Spark Plug Division	RF272–93723
Consultec, Inc	LFA–0412
Covington Highway Texaco	RF321–20122
Francis W. Taylor Co	RF272–94644
Fred McGilvray, Inc	RF272–97136
Hamilton & Horne Products, Inc	RF321–19771
J&D Texaco	RF321–16302
Kennedy Van Saun Corp	RF321–19990
Kroger Company	RF272–93687
Rabe Brothers	RF272–94134
Shallowford Rd. Texaco	RF321–20123
Shay's Service	RF272–79580
Steelcase Inc	RF272–90446
Summit Oil Company	RF351–25
Teledyne Portland Forge	RF272–90494
Town of Bristol	RF272–97044
U.S. Marine Corps Exchange	RF321–20294
Vermont Agency of Transportation	RF272–97103
W.R. Grace & Company	RF272–93721
Way's Texaco	RF321–20428

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 25, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–26918 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders; Week of September 19 Through September 23, 1994

During the week of September 19 through September 23, 1994, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Consultec Inc., 9/22/94, LFA–0415

Consultec Inc. filed an Appeal from a determination issued by the Office of Placement and Administration of the Department of Energy in response to a request from Consultec under the Freedom of Information Act. Consultec sought the names of subcontractors to a DOE contract as well as a copy of any subcontracts that DOE possessed in its files. In considering the Appeal, the Office of Hearings and Appeals found that the Office of Placement properly withheld the names of subcontractors under Exemption 4 and performed an adequate search for subcontracts. Accordingly, the Appeal was denied.

Refund Applications

Enron Corp./Dilts Gas Service, Butane Gas Company, Novak Enterprises, Inc., 9/21/94, RF340–146, RF340–185, RF340–192

The DOE issued a Decision and Order concerning refund applications that Dilts Gas Service (Dilts), Butane Gas Company (BGC), and Novak Enterprises, Inc. (Novak) had submitted in the Enron Corporation (Enron) special refund proceeding. The DOE found that those firms were retailers of Enron products who qualified for refunds under the small claim or 60 percent mid-range presumption of injury. However, the DOE found that Energy Refunds, Inc. (ERI) had submitted completely unrealistic and conflicting gallonage figures for Dilts and had failed to revise these estimates when it submitted ledger pages documenting the actual gallonage figures for that firm. Accordingly, the DOE found that ERI violated the terms of its reinstatement order. Energy Refunds, Inc., 24 DOE ¶ 85,016 at 88,034 (1994). The DOE granted Dilts, BGC and Novak a total refund of $44,115.

Telum Inc./Salt River Project Agricultural Improvement and Power District, 9/20/94, RF353–1

The DOE issued a Decision and Order granting an Application for Refund filed by Salt River Project Agricultural Improvement and Power District (Salt River Project) in the Telum Inc. Subpart V special refund proceeding. In the Implementation Order establishing the Telum Inc. Subpart V special refund proceeding, the DOE determined that Salt River Project, a regulated public utility, was the only firm affected by the alleged overcharges that were the subject of the Telum consent order. Therefore, in the present Decision, Salt River Project was granted a refund equal to the entire collected amount of the Telum consent order ($56,149.35) plus all interest that has accrued since the Telum consent order funds were placed in a DOE escrow account. In compliance with the requirements of the Telum Inc. Subpart V Implementation Order, Salt

River Project (i) certified that it will pass the refund it receives through to its customers, (ii) provided DOE with a full explanation of how it plans to accomplish this restitution, and (iii) certified that it will notify the appropriate regulatory body of the receipt of the refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

American Farm Lines, Inc	RA272–60	09/22/94
Barnhill Contracting Company	RC272–253	09/21/94
Henry S. Branscome, Inc. et al	RF272–90009	09/23/94
Paulding Consumers & Supply et al	RF272–93902	09/20/94
Texaco Inc./Cappy's Texaco	RF321–20477	09/20/94
Don Borland's Texaco	RF321–21026	
Texaco Inc./Flaming Gorge Texaco	RF321–17178	09/21/94
Texaco Inc./Maine Texaco et al	RF321–6130	09/21/94
Texaco Inc./Robinson Texaco	RF321–1772	09/20/94
Texaco Inc./South Dale Texaco	RF321–21031	09/20/94
Texaco Inc./Stan Silva's Texaco et al	RF321–12383	09/21/94
Texaco Inc./Westbelt Texaco	RF321–20661	09/20/94
Warren's Texaco Service	RF321–21027	
Twin Petroleum Company	RF272–93811	09/20/94
Whitaker Oil Co./Superior Sealants, Inc. et al	RF351–24	09/21/94

Dismissals

The following submissions were dismissed:

Name	Case No.
Bell Dairy Products	RF272–93698
City of Cleveland Heights	RF272–92035
Dean Foods Company	RF272–93694
Dean Milk Co., Inc	RF272–93695
Deer Trail Truckline	RF272–90556
Ergon, Inc	HEE–0056
Ergon, Inc	RF171–18
Freightways, Inc	RF272–93323
H & S Motor Freight	RF272–93322
Hayes Truck Line	RF272–93320
Liberty Dairy Company	RF272–93696
Otten Truck Line	RF272–93321
Patterson Texaco	RF321–12406
Ram Corporation	LEE–0159

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: October 25, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–26921 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Proposed Decision and Order; Week of September 26 Through September 30, 1994

During the week of September 26 through September 30, 1994, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E234,

Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: October 25, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Request for Exception

Leonard Wall Oil Company, MacKay, Idaho, LEE–0155, Reporting Requirements

Leonard Wall Oil Company filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. Accordingly, on September 26, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–26919 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Science Education and Technical Information

Energy Research Financial Assistance Program Notice 95–06: Experimental Program To Stimulate Competitive Research (EPSCoR)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Science Education and Technical Information (ET) of the U.S. Department of Energy (DOE), in keeping with its energy-related mission to assist in strengthening the Nation's human resource infrastructure through the support of science, engineering, and mathematics education at all levels of education, announces its interest in receiving applications from eligible States for the support of the DOE/EPSCoR Program. The purpose of the DOE/EPSCoR Program is to enhance the capabilities of designated States to conduct nationally competitive energy-related research and to develop science and engineering manpower in energy-related areas to meet current and future needs in those areas. Subject to availability of funds, approximately $7 million will be available for awards under the DOE/EPSCoR Program in FY 1995 for collaborative research and manpower development in energy-related science and engineering disciplines.

DATES: Applications under this Notice should be received by 4:30 p.m. Eastern Standard Time, January 25, 1995.

ADDRESSES: Application materials are available from the Office of Science Education and Technical Information, ET–31, 1000 Independence Avenue SW., Washington, DC 20585. Telephone requests for application materials may be made by calling (202) 586–8949. The completed applications referencing Program Notice 95–06 must be submitted to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64, room F–220, Washington, D.C. 20585, ATTN: Program Notice 95–06. The following address must be used when submitting applications by U.S. Postal Service Express mail, any commercial mail delivery service, or when hand carried by the applicant: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64, 19901 Germantown Road, Germantown, MD 20784. Telephone and telefax numbers must also be included in any application.

FOR FURTHER INFORMATION CONTACT: Donna J. Prokop, DOE/EPSCoR Program Manager, Office of Science Education and Technical Information, ET–31, U.S. Department of Energy, Washington, DC 20585, (202) 586–8949—Telephone, (202) 586–0019—Fax.

SUPPLEMENTARY INFORMATION: The Senate report accompanying the FY 1995 Energy and Water Development Appropriation Bill (S. Rep. No. 484, 103rd Cong., 2nd Sess., pg. 90) recommended that $7 million be committed to continuing the DOE/EPSCoR Program. In accordance with 10 CFR 600.7(b)(1), and to continue to enhance the competitiveness of states and territories identified for participation in the Experimental Program to Stimulate Competitive Research (EPSCoR) at the National Science Foundation (NSF), DOE has decided to continue to restrict eligibility to the following states and territory: Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming, and the Commonwealth of Puerto Rico.

Awards issued under this Notice will implement plans formulated under the previously awarded DOE/EPSCoR planning grants. New awards will provide funding for state management and coordination, human resource development activities, and research collaboration including student research activities. Approximately two to three new awards will be issued for a two-year period and up to a maximum of $1.25 million each for activities described above. In addition, DOE anticipates providing support for three to four renewal awards for projects begun under the DOE/EPSCoR initiative in FY 1993. Renewal awards will be issued for a one-year period and up to a maximum of $1.25 million. Any remaining balance of the estimated $7 million will be used to award funds to enable unsuccessful DOE/EPSCoR state committees to upgrade and refine state energy-related plans.

In addition, as a tangible measure of an applicant's commitment to the objectives of the DOE/EPSCoR Program, cost-sharing on a one-to-one ratio is a requirement of this program. Therefore, each application submitted requesting support from DOE under this Notice must provide, from non-Federal funds, an amount equal to the amount awarded by the DOE; i.e. for every dollar provided by DOE, the recipient must provide a dollar from non-Federal sources for the project.

General information about development and submission of applications, eligibility, limitations, evaluation, and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Energy Research Financial Assistance Program and in 10 CFR part 605. The Catalog of Federal Domestic Assistance number of this program is 81.049.

Issued in Washington, D.C., on October 20, 1994.

William A. Lewis, Jr.,

Director, Office of University and Science Education.

[FR Doc. 94–26917 Filed 10–28–94; 8:45 am]

BILLING CODE 6450–01–P

EXECUTIVE OFFICE OF THE PRESIDENT

Open Meetings of Policy Dialog Advisory Committee To Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles

AGENCY: Executive Office of the President.

ACTION: Meetings of Policy Dialog Advisory Committee.

SUMMARY: The Executive Office of the President has established a Policy

Dialog Advisory Committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles. The third meeting of this committee will be held on November 14 and 15, 1994. The fourth meeting will be held on December 15 and 16, 1994. The committee's meetings are open to the public without need for advance registration.

DATES: The committee will meet on November 14, 1994, from 9:30 a.m. to 5:30 p.m., and on November 15, 1994, from 8:30 a.m. to 4:30 p.m. The committee will meet on December 15, 1994, from 9:30 a.m. to 5:30 p.m., and on December 16, 1994, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: Both sessions of the November meeting will be held at the Resources for the Future Conference Center, 1400 16th Street, NW., Washington, DC. Both sessions of the December meeting will be held in room 2230 at the United States Department of Transportation, 400 7th Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the substantive issues to be dealt with by the advisory committee, contact: Ellen Seidman, Special Assistant to the President for Economic Policy, Washington, DC. 20500, phone (202) 456–2802, fax (202) 456–2223; Henry Kelley, Assistant Director for Technology, Office of Science and Technology Policy, phone (202) 456–6034, fax (202) 456–6023; Wesley Warren, Associate Director, Office on Environmental Policy, phone (202) 456–6224, fax (202) 456–2710; or Michael Toman, Senior Economist, Council of Economic Advisors, phone (202) 395–5012, fax (202) 395–6853. For information pertaining to administrative matters contact: Deborah Dalton, Environmental Protection Agency, 401 M Street, SW., Washington, DC. 20460, phone (202) 260–5495. Information about the committee is also available on the Technology Transfer Network of the Office of Air Quality Planning & Standards of the Environmental Protection Agency, which can be accessed electronically by calling (919) 541–5742. Help in accessing the system can be obtained by calling (919) 541–5384 between 1:00 and 5:00 eastern time. Neither of these numbers is a toll-free number.

AGENDA FOR THE MEETINGS: The topics that will be covered at the November meeting are:

- Factors affecting vehicle miles traveled;
- Role of alternative fuels and alternative fuel vehicles in reducing greenhouse gas emissions;
- Policy options for reducing greenhouse gas emissions; and
- Application of criteria for evaluation of policy options.

At the December meeting, the committee will continue its discussions of the policy options and how they will be evaluated by the committee.

Dated: October 27, 1994.

W. Bowman Cutter,

Deputy Assistant to the President for Economic Policy.

John H. Gibbons,

Director, Office of Science and Technology Policy.

Kathleen A. McGinty,

Director, Office on Environmental Policy.

[FR Doc. 94–27094 Filed 10–28–94; 8:45 am]

BILLING CODE 3195–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; Information Collections Under OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: The Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council ("FFIEC") has sent to the Office of Management and Budget ("OMB") the following Revision of a Currently Approved Collection of information under the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection should be received on or before November 30, 1994. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

ADDRESSES: Send comments to the ASC's Clearance Officer, Marc L. Weinberg, General Counsel; Appraisal Subcommittee; 2100 Pennsylvania Avenue NW., Suite 200, Washington, D.C. 20037, and to the OMB reviewer, Milo Sunderhaus, Clearance Officer; Office of Information and Regulatory Services; Office of Management and Budget; New Executive Office Building; Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel; Appraisal Subcommittee; 2100 Pennsylvania Avenue NW., Suite 200; Washington, D.C. 20037, or call (202) 634–6520, from whom copies of the information collection and supporting documents are available.

Revision of a Currently Approved Collection

(1) *Collection title:* Temporary Waiver Requests, Rules 1102.1 through 1102.7, 12 CFR part 1102, subpart A.

(2) *Form(s) submitted:* Not applicable.

(3) *Frequency of collection:* On occasion.

(4) *Use:* Requests for temporary waiver relief under § 1119(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3348(b).

(5) *Estimated number of respondents:* 1.

(6) *Frequency of response:* Once.

(7) *Estimated hours for respondents to provide information:* 3 hours per respondent.

(8) *Estimated total annual reporting and recordkeeping burden:* 3 hours.

Dated: October 25, 1994.

Edwin W. Baker,

Executive Director.

[FR Doc. 94–26873 Filed 10–28–94; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC. 20573.

Piraeus International, Inc.
3909 Eastern Ave.
Baltimore, MD 21224
Officers:
Nickolas A. Bouloubassis, President
Michael A. Bouloubassis, Vice President

Allpoints Consolidators, Ltd.
1300 Mark Street
Elk Grove Village, IL 60007
Officers:
Peter J. Jantzen, President
Barbara M. Edwards, Vice President

Blue Sky, Blue Sea Company dba International Shipping Company (USA)
169 Frelinghuysen Ave.

Newark, NJ 07114
Officers:
Ali Aelaei, President
Ales Ferasat, Vice President

Dated: October 25, 1994.

By the Federal Maritime Commission

Joseph C. Polking,

Secretary.

[FR Doc. 94–26824 Filed 10–28–94; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 2366
Name: Transtec Ocean Express Inc.
Address: 19443 Laurel Park Rd., Ste. 107, Rancho Dominguez, CA 90220
Date Revoked: July 13, 1994
Reason: Surrendered license voluntarily.

License Number: 3553
Name: International Relocation Co. dba ABcom International Transportation and Trading Co.
Address: 15272 Bolsa Chica Rd., Huntington Beach, CA 92649
Date Revoked: July 21, 1994
Reason: Failed to maintain a valid surety bond.

License Number: 2731
Name: Hemisphere Forwarding, Inc.
Address: 7 Cerro Street, Inwood, NY 11696
Date Revoked: July 27, 1994
Reason: Failed to maintain a valid surety bond.

License Number: 3342
Name: Maria Velez De Espinosa dba MV Ocean Freight Forwarders
Address: Rio Tallaboa AV–9, Valley Verde, Bayamon, PR 00961
Date Revoked: July 27, 1994
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 94–26825 Filed 10–28–94; 8:45 am]

BILLING CODE 6730–01–M

Automated Tariff Filing and Information System, Firms Certified for Batch Filing Capability as of October 24, 1994

[Of At least one type of tariff]

Calcutta, East Coast of India and Bangladesh/U.S.A. Conference, Metchen, New Jersey
Dart Maritime Service, Bethlehem, Pennsylvania
Distribution Publications, Inc. ("DPI"), Oakland, California
D.X.I., Inc., Pittsburgh, Pennsylvania
Effective Tariff Management Corporation ("ETM"), Bowie, Maryland
Expeditors International ("EI"), Seattle, Washington
Flexible Business Systems, Inc., Miami, Florida
Glenserve Company, Glendora, New Jersey
Japan-Atlantic and Gulf Freight Conference, Tokyo, Japan
Japan-Puerto Rico & Virgin Island Freight Conference, Tokyo, Japan
King Ocean Central America, S.A. ("KOCA"), Gundo Alt, Panama
King Ocean Service de Venezuela, S.A. ("KOSDV"), Chuao, Caracas
Logistical Concepts Ltd. ("LCL"), Drexel Hill, Pennsylvania
Maersk Inc., San Francisco, California
Mariner Systems, Inc., San Francisco, California
Maritime Management International, Inc., Miami, Florida
Matson Navigation Company, Inc., San Francisco, California
Matson Terminals, Inc., San Francisco, California
Miller Traffic Service, Inc., Maywood, California
Nippon Yusen Kaisha ("NYK"), San Francisco, California
NVO Tariff Services, Fremont, California
NX Corp., Columbia, Maryland
Ocean Tariff Bureau, Long Beach, California
Pacific Coast Tariff Bureau ("PCTB"), San Francisco, California
Paramount Tariff Services, Ltd. ("PTS"), Torrance, California
Rijnhaave Information Service, Inc., and World Tariff Services, Inc. ("WTS"), Union, New York
Star Shipping A/S, San Francisco, California
Sumner Tariff Services, Inc. Washington, DC
Tariff Data Services, Houston, Texas
Transamericas T.I.S., Inc., Falls Church, Virginia
Transax Systems, Bridgewater, New Jersey
Trans-Pacific Freight Conference of Japan, Tokyo, Japan
Transportation Services, Inc. ("TSI"), Fort Lauderdale, Florida
U.S. Traffic Service, Torrance, California
Wallenius Lines AB, Woodcliff Lake, New Jersey
Wallenius Lines North America, Inc., Woodcliff Lake, New Jersey
Zim Container Service, Inc., New York, New York.

Note: In the certification process, some certificants used software developed by other firms and may not be holding themselves out to file tariffs for the public, generally.

Joseph C. Polking,

Secretary.

[FR Doc. 94–26863 Filed 10–28–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Banco Santander, S.A.; Application to Engage in Nonbanking Activities

Banco Santander, S.A., Madrid Spain, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to engage *de novo* through its subsidiary, Santander Investment Securities, Inc., New York, New York, in the following activities: (1) Underwriting and dealing in obligations of the United States and Canada, general obligations of states and their political subdivisions, other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in, and money market instruments ("bank-eligible securities"); (2) underwriting and dealing, to a limited extent, in all types of debt securities; (3) underwriting and dealing, to a limited extent, in all types of equity securities; (4) acting as agent for issuers in the private placement of all types of securities and acting as a riskless principal with respect to all types of securities; (5) engaging in "full service brokerage" by providing investment and financial advisory services in combination with securities brokerage services; (6) making and servicing loans; and (7) buying and selling futures and forwards for, options on futures and forwards for, and options on, bank eligible and ineligible securities solely for hedging purposes, and in the case of instruments based on ineligible securities, solely as an incident to the proposed underwriting and dealing activities. Applicant proposes to conduct these activities throughout the United States and the world.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity that the Board, after due notice and opportunity for hearing, has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be

a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks generally have provided the proposed activity, that banks generally provide services that are so operationally or functionally similar to the proposed activity as to equip them particularly well to engage in the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Banco Santander states that the Board previously has determined by regulation that some of the proposed activities, when conducted within limitations established by the Board, are closely related to banking for purposes of section 4(c)(8) of the BHC Act. *See* 12 CFR 225.25(b)(1) (making and servicing loans); 12 CFR 225.25 (b)(15) (full-service brokerage services); 12 CFR 225.25(b)(16) (underwriting and dealing in bank-eligible securities).

Banco Santander also states that the Board has determined by order that the remaining proposed activities, when conducted within limitations established by the Board in previous orders, are closely related to banking. *See Canadian Imperial Bank of Commerce,*, 76 Federal Reserve Bulletin 158 (1990), *J.P. Morgan & Company Incorporated,*, 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Industry Association v. Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir 1990), and *Citicorp, et al.*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom. Securities Industry Association v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988) (underwriting and dealing in debt and equity securities); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) (riskless principal and private placement activities); *Swiss Bank Corporation*, 77 Federal Reserve Bulletin 759 (1991) (trading in derivatives of bank-eligible securities); *Dai-Ichi Kangyo Bank*, 77 Federal Reserve Bulletin 184 (1991) (trading in derivatives of bank-ineligible securities for hedging purposes as an incident to approved underwriting and dealing activities).

Banco Santander maintains that it and Santander Investment Securities would conduct these previously approved activities in conformance with the conditions and limitations established by the Board in prior cases, including the Board's 10 percent revenue limitation on underwriting and dealing activities. For this reason, Banco Santander contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a state member bank with any company principally engaged in the underwriting, public sale, or distribution of securities.

In order to approve the proposal, the Board must determine that the proposed activities "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8). Banco Santander states that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Banco Santander maintains that the proposal will enhance competition and enable it to offer its customers a broader range of products. In addition, Banco Santander states that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 15, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 25, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-26871 Filed 10-28-94; 8:45 am]

BILLING CODE 6210-01-F

Eiden Interests, Ltd., 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 25, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Eiden Interests, Ltd., Gurnee, Illinois; to become a bank holding company by acquiring 31.4 percent of

the voting shares of First Waukegan Corporation, Glenview, Illinois, and thereby indirectly acquire Bank of Northern Illinois, Glenview, Illinois, and Bank of Northern Illinois, N.A., Waukegan, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Diamond Bancorp, Inc., Washington, Missouri; to become a bank holding company by acquiring 94.46 percent of the voting shares of Bank of Washington, Washington, Missouri.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Capital City Bancshares, Inc., Topeka, Kansas; to acquire 47.5 percent of the voting shares of Johnson County Bank (in organization), Overland Park, Kansas.

2. Fourth Financial Corporation, Wichita, Kansas; to acquire 100 percent of the voting shares of Blackwell Security Bancshares, Inc., Blackwell, Oklahoma, and thereby indirectly acquire Security Bank and Trust Company, Blackwell, Oklahoma.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Casey Bancorp, Inc., Grand Prairie, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Grand Prairie State Bank, Grand Prairie, Texas.

2. Chalybeate Springs, L.C., Hughes Springs, Texas; to become a bank holding company by acquiring 1 percent of the voting shares of First National Bank, Hughes, Texas.

3. Yoakum National Bancshares, Inc., Yoakum, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Yoakum National Bancshares-Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire Yoakum National Bank, Yoakum, Texas. In connection with this application, Yoakum National Bancshares-Delaware, Inc., also has applied to become a bank holding company.

E. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Centennial Holdings, Ltd., Olympia, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Centennial Bank, Olympia, Washington.

Board of Governors of the Federal Reserve System, October 25, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-26870 Filed 10-28-94; 8:45 am]

BILLING CODE 6210-01-F

SBC, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 15, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. SBC, Inc., Countryside, Illinois; to acquire Secure Holdings, Inc., Countryside, Illinois, and indirectly acquire Secure Savings Bank, FSB, Fontana, California, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 25, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-26872 Filed 10-28-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. 9215]

The Coca Cola Bottling Company of the Southwest; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This final order requires Coca Cola Bottling Company of the Southwest to divest the Dr Pepper franchise it acquired from San Antonio Dr Pepper Bottling, within 12 months. If the divestiture is not completed within that period, the Commission may appoint a trustee to complete it. In addition, the order requires the respondent to obtain Commission approval before acquiring any branded carbonated soft drink interests in any area in which it already makes, distributes or sells branded concentrate or syrup, or branded carbonated soft drinks.

DATES: Complaint issued July 29, 1988. Final order issued August 31, 1994.[1]

FOR FURTHER INFORMATION CONTACT: James Elliott or Thomas Carter, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX. 75201. (214) 767-5501.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 94-26933 Filed 10-28-94; 8:45 am]

BILLING CODE 6750-01-M

[File No. 922 3197]

Creative Aerosol Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Final Order, and statements by Commissioner Owen and Commissioner Yao are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New Jersey manufacturer of children's bath soap from representing that certain products or packaging will not harm the environment or atmosphere, or that any product or package offers any environmental benefit, unless it possesses competent and reliable evidence that substantiates the representation. The consent agreement also prohibits the respondent from misrepresenting that any product or packaging is capable of being recycled, or the extent to which recycling collection programs for them are available.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, DC 20580, (202) 326–3158.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of Creative Aerosol Corp., a Corporation; Agreement Containing Consent Order to Cease and Desist

[File No. 922–3197]

The Federal Trade Commission having initiated an investigation of certain acts and practices of Creative Aerosol Corp., a corporation ("proposed respondent"), and it now appears that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Creative Aerosol Corp., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Creative Aerosol Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office or place of business at 71 West Main Street, Freehold, New Jersey 07728–2114.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

"Volatile Organic Compound" ("VOC") means any compound of carbon which participates in atmospheric photochemical reactions as defined by the U.S. Environmental Protection Agency at 40 CFR 51.100(s), and as subsequently amended. When the final rule was promulaged, 57 FR 3941 (February 3, 1992), the EPA definition excluded carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate and certain listed compounds that EPA has determined are of negligible photochemical reactivity.

"Class I ozone-depleting substance" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101–549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride, and 1,1,1-trichloroethane.

"Class II ozone-depleting substance" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101–

549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

"Product or package" means any product or package that is offered for sale, sold or distributed to the public by respondent, its successors and assigns, under the Funny Color Foam brand name or any other brand name of respondent, its successors and assigns; and also means any product or package sold or distributed to the public by third parties under private labeling agreements with respondent, its successors and assigns.

"Competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

It is ordered that respondent, Creative Aerosol Corp., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package containing any volatile organic compound, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, through the use of such terms as "environmentally safe," "environmentally safe, contains no fluorocarbons," or any other term or expression, that any such product or package will not harm the environment, or through the use of such terms as "no fluorocarbons," or any other term or expression, that any such product or package will not harm the atmosphere, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

II

It is further ordered that respondent, Creative Aerosol Corp., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package containing any Class I or Class II ozone-depleting substance, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any such product or package contains "no fluorocarbons" or representing, in any manner, directly or by implication, that any such product or package will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere or otherwise harm the atmosphere.

III

A. *It is further ordered* that respondent, Creative Aerosol Corp., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication the extent to which:

(1) any such product or package is capable of being recycled; or,

(2) recycling collection programs for such product or package are available.

B. *Provided*, however, respondent will not be in violation of Part III(A)(2) of this Order, in connection with the advertising, labeling, offering for sale, sale, or distribution of any high-density polyethylene cap or aluminum aerosol can, if it truthfully represents that such packaging is recyclable, provided that:

(1) respondent discloses clearly, prominently, and in close proximity to such representation:

(a) in regard to any high-density polyethylene cap, that it is recyclable in the few communities with recycling collection programs for high-density polyethylene caps; and in regard to any aluminum aerosol can, that such packaging is recyclable in the few communities with recycling collection programs for aluminum aerosol cans; or

(b) the approximate number of U.S. communities with recycling collection programs for such high-density polyethylene cap or aluminum aerosol can; or

(c) the approximate percentage of U.S. communities or the U.S. population to which recycling collection programs for such high-density polyethylene cap or aluminum aerosol can are available; and

(2) in addition, in the case of a high-density polyethylene cap, such cap itself bears a clear identification of the specific plastic resin(s) from which it is made.

For purposes of this Order, a disclosure elsewhere on the product package shall be deemed to be "in close proximity" to such representation if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the part of the package on which the representation appears.

IV

It is further ordered that respondent, Creative Aerosol Corp., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product or package offers any environmental benefit, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

V

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VI

It is further ordered that respondent shall distribute a copy of this Order to

each of its operating divisions and to each of its offices, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.

VII

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

VIII

It is further ordered that respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Creative Aerosol Corporation, a Delaware corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the labeling and advertising of the respondent's Funny Color Foam soap. The Commission's complaint in this matter alleges that Funny Color Foam soap is sold in an aluminum aerosol can with a plastic cap which is made from high-density polyethylene. The product contained the volatile organic compounds (VOCs) isobutane and propane and was then reformulated by substituting for the VOCs hydrochlorofluorocarbon—chlorodifluoromethane (HCFC–22).

The Commission's complaint charges that the respondent made the following advertising claims while the product contained VOCs:

"ENVIRONMENTALLY SAFE Contains no fluorocarbons. Non-Irritant. Non-toxic." The complaint alleges that through such claims, the respondent represented without substantiation that Funny Color Foam does not contain any ingredients that harm or damage the environment. In fact, Funny Color Foam contained VOCs—chemicals that under many atmospheric conditions contribute to the formation of ground level ozone, a major component of smog.

The complaint also charges that the respondent claimed that its reformulated product contains "NO FLUOROCARBONS." The complaint alleges that through this claim, the respondent falsely represented that because Funny Color Foam contains no fluorocarbons, it will not deplete the earth's ozone layer or otherwise harm or damage the atmosphere. In fact, Funny Color Foam contains the harmful ozone-depleting ingredient chlorodifluoromethane (HCFC–22), which harms or causes damage to the atmosphere by contributing to the depletion of the earth's ozone layer.

In addition, the complaint charges that the respondent falsely represented that Funny Color Foam's aluminum aerosol can and plastic cap are recyclable. In fact, the complaint alleges, while the aluminum can and plastic cap are capable of being recycled, the vast majority of consumers cannot recycle them because there are virtually no collection facilities that accept aluminum aerosol cans for recycling and only a few collection facilities nationwide that accept the high-density polyethylene cap for recycling.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future.

The term "volatile organic compound" (VOC) is defined in the consent order in accordance with the definition adopted by the Environmental Protection Agency (EPA) in a February 3, 1992, rulemaking. To assist the public and the industry in understanding the coverage of this order, those compounds that EPA expressly excluded from the definition of VOC at the time the definition was promulgated are listed in the order. Because EPA could in the future modify the definition based on evolving scientific evidence, the term VOC as used in the order will vary depending upon EPA's definition of the term. Those compounds that EPA may decide should be excluded from the definition of VOC because of negligible photochemical reactivity will thus be excluded under the consent order. Likewise any compounds that EPA may decide should be defined as VOCs will be covered by the order.

The proposed order also defines Class I and Class II ozone-depleting substances, incorporating the definitions established in the Clean Air Act Amendments of 1990. Class I substances currently listed under the Act include CFCs, halons, carbon tetrachloride, and 1,1,1-trichloroethane. Class II substances currently consist of HCFCs.

Part I of the proposed order requires the respondent to cease and desist from representing that any product or package containing volatile organic compounds is "environmentally safe," "environmentally safe, contains no fluorocarbons," contains "no fluorocarbons," or through the use of any other term or expression, that any such product or package will not harm the environment or the atmosphere, unless the respondent possesses competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

Part II of the proposed order requires the respondent to cease and desist from representing that any product or package containing any Class I or Class II ozone-depleting substance contains "no fluorocarbons" or representing, in any manner, that any such product or package will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere or otherwise harm the atmosphere.

Under the Clean Air Act Amendments, the EPA has authority to add new chemicals to the Class I and Class II lists. In fact, EPA has added methyl bromide and hydrobromofluorocarbons (HBFCs) to the list of Class I substances. Thus, the order's definitions of Class I and Class II ozone-depleting substances include these and any other substances that may be added to the lists. If additional substances are added to the Class I or II lists, Part II of the order becomes applicable to claims made for products containing those substances after the substances are added to the lists.

Part III of the proposed order requires that the respondent cease and desist from misrepresenting, in any manner, directly or by implication, with respect to any product or package the extent to which it is capable of being recycled or the extent to which recycling collection programs are available. Part III also contains a proviso that allows the respondent to advertise high-density polyethylene caps and aluminum aerosol cans as recyclable without violating Part III of the order. The respondent may do so if it truthfully

represents that such packaging is capable of being recycled; discloses clearly, prominently and in close proximity to such claim (a) that such packaging is recyclable in the few communities with recycling collection programs for high-density polyethylene caps or aluminum aerosol cans; or (b) the approximate number of U.S. communities with recycling collection programs for such packaging; or (c) the approximate percentage of U.S. communities or the U.S. population to which recycling collection programs for such packaging is available; and in addition, in the case of the high-density polyethylene cap, the cap itself bears a clear identification of the specific plastic resin(s) from which it is made.

Part IV of the proposed order provides that if the respondent represents in advertising or labeling that any product or package offers any environmental benefit, it must have a reasonable basis consisting of competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claims.

The proposed order also requires the respondent to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–26932 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3533]

The Dow Chemical Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Marion Merrell Dow, Inc. to license its dicyclomine formulations and production technology to a third party within twelve months, and to contract manufacture dicyclomine for the third party while that party awaits Food and Drug Administration approval to sell its own dicyclomine. The consent order also prohibits, for ten years, acquisition of any dicyclomine manufacturing, production or distribution capabilities without prior Commission approval.

DATES: Complaint and Order issued September 23, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Ann Malester or Claudia Higgins, FTC/S–2224, Washington, D.C. 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: On Wednesday, July 6, 1994, there was published in the **Federal Register**, 59 FR 34625, a proposed consent agreement with analysis In the Matter of The Dow Chemical Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 94–26934 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3530]

Home Oxygen & Medical Equipment Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California supplier of oxygen systems prescribed for home use from acquiring or granting, for ten years, an ownership interest in a firm that sells or leases oxygen systems in the relevant geographic market, if more than 25 percent of the pulmonologists in that market would be affiliated with the firm, and requires the respondents to notify the Commission if they acquire more than one percent of a firm that sells or leases oxygen systems anywhere.

DATES: Complaint and Order issued September 14, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Linda Badger or Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, November 17, 1993, there was published in the **Federal Register**, 58 FR 60653, a proposed consent agreement with analysis In the Matter of Home Oxygen & Medical Equipment Co., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–26936 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3531]

Certain Home Oxygen Pulmonologists, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, four physicians who are partners in the Home Oxygen & Medical Equipment Co., a California supplier of oxygen systems prescribed for home use, from acquiring or granting, for ten years, an ownership interest in a firm that sells or leases oxygen systems in the relevant geographic market, if more than 25

[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch H–130, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

[1] Copies of the Complaint, the Decision and Order, and statements from Commissioners Azcuenaga and Starek are available from the Commissioner's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

percent of the pulmonologists in that market would be affiliated with the firm, and requires the respondents to notify the Commission if they acquire more than one percent of a firm that sells or leases oxygen systems anywhere.

DATES: Complaint and Order issued September 14, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Linda Badger or Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, November 17, 1993, there was published in the **Federal Register,** 58 FR 60653, a proposed consent agreement with analysis In the Matter of Certain Home Oxygen Pulmonologists, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–26931 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. No. C–3532]

Homecare Oxygen & Medical Equipment Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California supplier of oxygen systems prescribed for home use from acquiring or granting, for ten years, an ownership interest in a firm that sells or leases oxygen systems in the relevant geographic market, if more than 25 percent of the pulmonologists in that market would be affiliated with the firm, and requires the respondents to notify the Commission if they acquire more than one percent of a firm that sells or leases oxygen systems anywhere.

DATES: Complaint and Order issued September 14, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Linda Badger, or Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, November 17, 1993, there was published in the **Federal Register,** 58 FR 60653, a proposed consent agreement with analysis, In the Matter of Homecare Oxygen & Medical Equipment Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–26939 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3236]

Hyde Athletic Industries, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Corrections in Analysis To Aid Public Comment.

SUMMARY: This document contains a corrected version of the Analysis to Aid Public Comment which was published on Friday, September 23, 1994 (59 FR 48892), in connection with a consent agreement accepted subject to final approval by the Federal Trade Commission. The consent agreement would settle alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition by prohibiting a Massachusetts footwear marketer from, among other things, misrepresenting the extent to which any footwear is made in the United States. It would also require the respondent to maintain materials relied upon for any country of origin representations and to distribute copies of the Commission order to its operating divisions and certain company officials. The corrected version of the Analysis to Aid Public Comment is attached.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago IL 60603. (312) 353–8156.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Hyde Athletic Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns country of origin claims made by the respondent for its "Saucony" brand footwear, which appeared in respondent's advertising and on labeling for certain of its footwear. The Commission's complaint charges that respondent represented that Saucony footwear is made in the United States, that is, that all or virtually all of the component parts of the footwear are made in the United States, and all or virtually all of the labor in assembling the footwear is performed in the United States. The complaint alleges that this claim is false and misleading because a substantial amount of Saucony footwear is assembled in foreign countries of foreign component parts, and a substantial amount of Saucony footwear assembled in the United States consists largely of foreign component parts.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the respondent from misrepresenting,

[1] Copies of the Complaint, the Decision and Order, and statements from Commissioners Azcuenaga and Starek are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint, the Decision and Order, and statements from Commissioners Azcuenaga and Starek are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, DC 20580.

directly or by implication, the extent to which any footwear is made in the United States. This Part provides, however, that "Made in the USA" claims will not violate the order if all or virtually all of the parts and labor are of domestic origin. This Part also contains a safe harbor provision that specifies language respondent can use when making a country of origin disclosure for footwear that is made or assembled in one country in whole or in part of materials made in another country.

Part II of the proposed consent order provides that the respondent may continue to deplete its existing inventory of footwear and footwear packaging printed or labeled prior to the date of service of this order, provided that the respondent itself does not sell or distribute that inventory more than ninety (90) days after the date of service of the order.

The remaining parts of the proposed consent order require the respondent to maintain materials relied upon in disseminating any country of origin representations, to distribute copies of the order to each of its operating divisions and to certain company officials, to notify the Commission of certain changes in corporate structure, and to file one or more compliance reports.

The standard set forth in the complaint and proposed order for an unqualified "Made in the USA" (or the like) claim is that all or virtually all of the parts and labor used in the manufacture of the product must be of domestic origin. This standard is consistent with Commission case precedent,[1] certain other statutes enforced by the Commission,[2] and extrinsic evidence obtained by the Commission regarding consumer perceptions of "Made in USA" claims. The Commission would be interested in receiving any information relevant to its standard for "Made in USA" claims, including information on the competitive and other effects of this standard and on consumer perceptions of country of origin claims.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donal S. Clark,

Secretary.

[FR Doc. 94–26937 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[1] *See, e.g., Windsor Pen Corp.*, 64 F.T.C. 454 (1964); *Joseph H. Meyer Bros.*, 47 F.T.C. 49 (1950); *Vulcan Lamp Works, Inc.*, 32 F.T.C. 7 (1940). The Commission's advisory opinions have also set forth this standard. *See, e.g.*, Advisory Opinion No. 215, Misrepresenting Hoist as "Made in U.S.A.," 73 F.T.C. 1321 (1968).

[2] Wool Products Labeling Act, 15 U.S.C. §§ 68–68j (1973 & Supp. 1994); Textile Fiber Products Identification Act, 15 U.S.C. §§ 70–70k (1972 & Supp. 1994).

[File No. 932 3163]

Notations, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Pennsylvania company and its president from misbranding any textile product by mentioning or implying that the product contains a fiber without using the generic fiber name required by the Textile Fiber Products Identification Act and the Federal Trade Commission rules, or by mentioning or implying that it contains a fiber when it, in fact, does not. The respondents also would be required to file with the Commission a continuing guaranty applicable to all textile products they handle in the future.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Katharine Alphin, Atlanta Regional Office, 1718 Peachtree St., N.W., Room 1000, Atlanta, GA. 30367. (404) 347–4837.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of: Notations, Inc., a corporation, and Kurt Erman, individually and as an officer of said corporation; File No. 932 3163. Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Notations, Inc., a corporation and Kurt Erman, individually and as an officer of said corporation, and it now appearing that Notations, Inc., a corporation, and Kurt Erman, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Notations, Inc., by its duly authorized officer, and Kurt Erman, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Notations, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 109 Pike Circle, Huntingdon Valley, Pennsylvania 19062.

2. Proposed respondent Kurt Erman is the sole shareholder and president of Notations, Inc. He formulates, directs and controls the policies, acts and practices of said corporation and his office and principal place of business are the same as Notations, Inc.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take

such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law an alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents Notations, Inc., a corporation, its successors and assigns, and its officers, and Kurt Erman, individually and an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product, as "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, 15 U.S.C. 70, hereinafter "Textile Fiber Act," and the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 U.S.C. § 303, hereinafter "Rule(s)," do forthwith cease and desist from misbranding or falsely or deceptively advertising any such product by:

A. Mentioning or implying fiber content without using the generic fiber names in a manner consistent with the Textile Fiber Act and the Rules thereunder; and

B. Mentioning or implying fiber content for a fiber that is not present in such textile fiber product.

II

It is further ordered that respondents shall forthwith file with the Commission a continuing guaranty applicable to all textile products handled by respondents, in the form prescribed by Rule 38, 16 CFR § 303.38.

III

It is further ordered that respondent Notations, Inc., shall:

A. For a period of five (5) years after the service of this order, keep copies of each stamp, tag, label or other form of identification that shows information required by the Textile Fiber Act as well as such records as will show the textile fiber products in which each stamp, tag, label or other form of identification was affixed for each product it introduces, manufactures for introduction, sells, advertises, offers for sale or imports; and

B. For a period of five (5) years after the service of this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying, the documents in Paragraph III.A. above and such other documents and materials as shall demonstrate full compliance with this order.

IV

It is further ordered that respondent, Notations, Inc., shall within thirty (30) days after the date of service of this order, provide a copy of this order to each of its current directors and officers, and to each employee, agent and representative having managerial, purchasing, importing, sales, advertising, or policy responsibility with respect to the subject matter of this order.

V

It is further ordered that respondent, Notations, Inc., shall, in writing, notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other such change in the corporation that may affect compliance obligations arising out of the order.

VI

It is further ordered that, for a period of five (5) years from the date of service of this order, respondent Kurt Erman, shall, in writing, notify the Federal Trade Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with a new business or employment, each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VII

It is further ordered that respondents shall, within sixty (60) days after the date of service of this order, submit a verified report in writing, to the Federal Trade Commission setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from respondents Notations, Inc., and Kurt Erman, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents misbranded certain textile fiber products by using the trade name Micro Silk, thereby implying that silk, a

fiber not present in the products, was present. These acts and practices are in violation of the Textile Fiber Products Identification Act, 15 U.S.C. 70; the Commission's Rules and Regulations Under the Textile Fiber Products Identification Act, 16 CFR 303; and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

The proposed order requires that the company cease and desist (1) Mentioning or implying fiber content without using the generic fiber names in a manner consistent with the Act and Rules, and (2) mentioning or implying fiber content for a fiber that is not present in a textile fiber product.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–26938 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9250]

Stouffer Foods Corporation; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: This final order prohibits Stouffer Foods Corporation, the manufacturer and advertiser for Lean Cuisine frozen entrees, from misrepresenting, in any manner, the existence or amount of sodium or any other nutrient or ingredient in any of its frozen-food products.

DATES: Complaint issued October 28, 1991. Final order issued September 26, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Theodore Hoppock, FTC/S–4002, Washington, D.C. 20580. (202) 326–3087.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 94–26939 Filed 10–28–94; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Commissioner Azcuenaga's statement, and Final Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegation of Authority

Part A (Office of the Secretary), Chapter AE (Office of the Assistant Secretary for Planning and Evaluation (OASPE)) of the Statement of Organization, Functions and Delegation of Authority for the Department of Health and Human Services (most recently amended at 58 FR 247 on December 28, 1993) is amended as follows:

I. Chapter AE paragraph D. "The Office of Family, Community and Long-Term Care," delete in its entirety and replace with the following:

D. The Office of Disability, Aging and Long-Term Care Policy—The Office of Disability, Aging and Long-Term Care Policy is responsible for the development, coordination, research and evaluation of HHS policies and programs which support the independence, productivity, health and security of children, working age adults, and older persons with disabilities. The office is also responsible for policy coordination and research to promote the economic and social well-being of the elderly.

1. The Division of Disability and Aging Policy is responsible for coordination, policy development, research and evaluation of HHS policies and programs focusing on persons with disabilities (including the Developmental Disabilities Act) and for the aging. Aging activities related to the Older Americans Act are carried out in coordination with the Office of the Assistant Secretary for Aging. This includes measuring and evaluating the impact of all programs authorized by the Older Americans Act. The division is also responsible for supporting the development and coordination of crosscutting disability and aging policies within the Department and in other Federal agencies whose actions affect the health, economic and social well-being of persons with disabilities and elderly populations. The division is responsible for assessing the interaction between health, disability, and the economic well-being of persons of all ages with disabilities including the prevalence of disability and disabling conditions, socio-demographic characteristics, service use, income, employment, and program participation patterns, and for coordinating the development of policies which are responsible to the characteristics, circumstances and needs of disabled populations. The division's responsibilities include long-range planning, budget and economic analysis, program analysis, review of regulations and reports on legislation, review and conduct of research and evaluation activities, and information dissemination.

2. The Division of Long-Term Care Policy is responsible for coordination, development, research and evaluation of HHS policies and programs which address the long-term care and personal assistance needs of people of all ages with chronic disabilities. The division is the focal point for policy development and analysis related to the long-term care services components of health care reform as well as Medicare, Medicaid, and including nursing facility services, community residential services, personal assistance services, home health and rehabilitation services, and the integration of acute, post-acute and long-term care services. The division's responsibilities include long-range planning, budget and economic analysis, program analysis, review of regulations and reports on legislation, review and conduct of research and evaluation activities, and information dissemination.

Dated: October 21, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–26838 Filed 10–28–94; 8:45 am]

BILLING CODE 4150–04–M

1995 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—(1) A 2.8 percent cost-of-living increase in Social Security benefits under title II, effective for December 1994;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI for 1995 to $458 for an eligible individual, $687 for an eligible individual with an eligible spouse, and $229 for an essential person;

(3) The national average wage index (formerly, the average of the total wages) for 1993 to be $23,132.67;

(4) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $61,200 for remuneration paid in 1995 and self-employment income earned in taxable years beginning in 1995;

(5) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1995 to be $940 for beneficiaries age 65 through 69 and $680 for beneficiaries under age 65;

(6) The dollar amounts ("bend points") used in the benefit formula for workers who become eligible for benefits in 1995 and in the formula for computing maximum family benefits;

(7) The amount of earnings a person must have to be credited with a quarter of coverage in 1995 to be $630;

(8) The "old-law" contribution and benefit base to be $45,300 for 1995; and

(9) The OASDI fund ratio to be 116.6 percent for 1994.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. A summary of the information in this announcement is available in a recorded message by telephoning (410) 965–3053. This telephone message will be updated to reflect changes to the cost-of-living benefit increase and other determinations.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Social Security Act (the Act) to publish within 45 days after the close of the third calendar quarter of 1994 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish on or before November 1 the national average wage index for 1993 (section 215(a)(1)(D)), the OASDI fund ratio for 1994 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 1995 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1995 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1995 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1995 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1995 (section 203(a)(2)(C)).

Cost-of-Living Increases

General

The cost-of-living increase is 2.8 percent for benefits under titles II and XVI of the Act.

Under title II, OASDI benefits will increase by 2.8 percent beginning with the December 1994 benefits, which are payable on January 3, 1995. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 2.8 percent effective for payments made for the month of January 1995 but paid on December 30, 1994. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1995 is the same as the title II percentage increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation

Under section 215(i) of the Act, the third calendar quarter of 1994 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is, therefore, required to increase benefits, effective with December 1994, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1994, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1993 through the third quarter of 1994.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1993, was: For July 1993, 142.1; for August 1993, 142.4; and for September 1993, 142.6. The arithmetic mean for this calendar quarter is 142.4 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1994, was: for July 1994, 145.8; for August 1994, 146.5; and for September 1994, 146.9. The arithmetic mean for this calendar quarter is 146.4. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1994, exceeds that for the calendar quarter ending September 30, 1993 by 2.8 percent, a cost-of-living benefit increase of 2.8 percent is effective for benefits under title II of the Act beginning December 1994.

Title II Benefit Amounts

In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1995, benefits will increase by 2.8 percent beginning with benefits for December 1994 which are payable on January 3, 1995. In the case of first eligibility after 1994, the 2.8 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) Increasing by 2.8 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the OASDI contribution and benefit base for 1994); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1995, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits, the Secretary shall publish in the Federal Register a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 "years of coverage." To earn a year of coverage for purposes of the special minimum, a person must earn at least a certain proportion (25 percent for years before 1991, and 15 percent for years after 1990) of the "old-law" contribution and benefit base. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 2.8 percent benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1993	Number of years of coverage	Special minimum primary insurance amount payable for Dec. 1994	Special minimum family benefit payable for Dec. 1994
$25.10	11	$25.80	$38.80
50.10	12	51.50	77.80
75.60	13	77.70	116.90
100.80	14	103.60	155.70
126.00	15	129.50	194.30
151.30	16	155.50	233.80
176.60	17	181.50	272.80
202.00	18	207.60	311.60
227.20	19	233.50	350.60
252.30	20	259.30	389.50
277.90	21	285.60	428.70
303.00	22	311.40	467.60
328.50	23	337.60	507.20
353.70	24	363.60	545.90
378.90	25	389.50	584.60
404.40	26	415.70	624.20
429.70	27	441.70	663.00
454.80	28	467.50	701.80
480.00	29	493.40	740.90
505.30	30	519.40	779.70

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $183.40 for an individual under sections 227 and 228 of the Act is increased by 2.8 percent to obtain the new amount of $188.50. The present monthly benefit amount of $91.80 for a spouse under section 227 is increased by 2.8 percent to $94.30.

Title XVI Benefit Amounts

In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 2.8 percent effective January 1995. Therefore, the yearly Federal SSI benefit amounts of $5,352 for an eligible individual, $8,028 for an eligible individual with an eligible spouse, and $2,676 for an essential person, which became effective January 1994, are increased, effective January 1995, to $5,496, $8,244, and $2,748, respectively, after rounding. The corresponding monthly amounts for 1995 are determined by dividing the yearly amounts by 12, giving $458, $687, and $229, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

National Average Wage Index for 1993

General

Under various provisions of the Act, several amounts are scheduled to increase automatically for 1995. These include (1) The OASDI contribution and benefit base, (2) the retirement test exempt amounts, (3) the dollar amounts, or "bend points," in the primary insurance amount and maximum family benefit formulas, (4) the amount of earnings required for a worker to be credited with a quarter of coverage, and (5) the "old law" contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments). These amounts are based on the annual increase in the average of the total wages. Section 321(e) of the "Social Security Independence and Program Improvements Act of 1994" (Pub. L. 103–296), enacted August 15, 1994, provided the name "national average wage index" for the average of the total wages. This new designation will be used throughout this notice.

Section 321(g) of the new legislation also revised the formula used to determine the OASDI contribution and benefit base, the retirement test exempt amounts, and the old-law contribution and benefit base. Under the old formula, the determination in a given year of the next year's amount was the product of the current year's amount and the ratio of (1) The prior year's national average wage index to (2) the second prior year's average wage index. (For example, the determination of the 1995 contribution and benefit base under the old formula would have been the product of the 1994 base times the ratio of the 1993 national average wage index to the 1992 average wage index.)

The revised formula differs from the old formula in that the current year's amount is replaced by the amount in effect for 1994 and the national average wage index for the second prior year is replaced by the 1992 national average wage index. Thus, the revised formula can be stated as follows: the determination in a given year of the next year's amount is the product of the 1994 amount and the ratio of (1) The prior year's national average wage index to (2) the 1992 national average wage index.

Under both the old and the revised formula, the resulting dollar amounts are rounded—to the nearest multiple of $300 in the case of each of the two types of contribution and benefit bases, and to the nearest $10 in the case of the monthly retirement test exempt amounts. By using fixed amounts in the revised formula, cumulative rounding distortions are eliminated.

For the first determinations under the revised formula, the resulting amounts are the same as those that would have been determined under the old formula. For subsequent determinations, this may not be the case.

Computation

The determination of the national average wage index for calendar year 1993 is based on the 1992 national average wage index of $22,935.42 announced in the **Federal Register** on October 28, 1993 (58 FR 58004), along with the percentage increase in average

wages from 1992 to 1993 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from this data were $22,001.92 and $22,191.14 for 1992 and 1993, respectively. To determine the national average wage index for 1993 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1992 national average wage index of $22,935.42 by the percentage increase in average wages from 1992 to 1993 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent):

Amount

The national average wage index for 1993 is $22,935.42 times $22,191.14 divided by $22,001.92, which equals $23,132.67. Therefore, the national average wage index for calendar year 1993 is determined to be $23,132.67.

OASDI Contribution and Benefit Base

General

The OASDI contribution and benefit base is $61,200 for remuneration paid in 1995 and self-employment income earned in taxable years beginning in 1995.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 1995 is set by statute at 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 1995 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 1995, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 1995, at the rate of 2.9 percent.)

(b) It is the maximum annual amount used in determining a person's OASDI benefits.

Computation

Section 321(g) of the "Social Security Independence and Program Improvements Act of 1994" amended section 230(b) of the Act. As noted above, the amendment provided a technical change to the formula used to determine the OASDI contribution and benefit base. Under the revised formula, the base for 1995 shall be equal to the larger of the current base ($60,600) or the 1994 base of $60,600 multiplied by the ratio of the national average wage index for 1993 to that for 1992. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

The ratio of the national average wage index for 1993, $23,132.67 as determined above, compared to that for 1992, $22,935.42, is 1.0086002. Multiplying the 1994 OASDI contribution and benefit base amount of $60,600 by the ratio of 1.0086002 produces the amount of $61,121.17 which must then be rounded to $61,200. Accordingly, the OASDI contribution and benefit base is determined to be $61,200 for 1995.

Retirement Earnings Test Exempt Amounts

General

Social Security benefits are withheld when a beneficiary under age 70 has earnings in excess of the retirement earnings test exempt amount. A formula for determining the monthly exempt amounts is provided in section 203(f)(8)(B) of the Act. The 1994 monthly exempt amounts were determined by the formula to be $930 for beneficiaries aged 65–69 and $670 for beneficiaries under age 65. Thus, the annual exempt amounts for 1994 were set at $11,160 and $8,040, respectively. For beneficiaries aged 65–69, $1 in benefits is withheld for every $3 of earnings in excess of the annual exempt amount. For beneficiaries under age 65, $1 in benefits is withheld for every $2 of earnings in excess of the annual exempt amount.

Computation

Section 321(g) of the "Social Security Independence and Program Improvements Act of 1994" also amended the indexing formula provided in section 203(f)(8)(B) of the Act. Under the revised formula, each monthly exempt amount for 1995 shall be the larger of the corresponding 1994 monthly exempt amount or the corresponding 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 1993 to that for 1992. The ratio of the national average wage index for 1993, $23,132.67 as determined above, compared to that for 1992, $22,935.42, is 1.0086002. Section 203(f)(8)(B) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Exempt Amount for Beneficiaries Aged 65 Through 69

Multiplying the 1994 retirement earnings test monthly exempt amount of $930 by the ratio of 1.0086002 produces the amount of $938.00. This must then be rounded to $940. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $940 for 1995. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $11,280.

Exempt Amount for Beneficiaries Under Age 65

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio 1.0086002 produces the amount of $675.76. This must then be rounded to $680. The retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $680 for 1995. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $8,160.

Computing Benefits After 1978

General

The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's "average indexed monthly earnings" to compute the primary insurance amount. The computation formula is adjusted automatically each year to reflect changes in general wage levels, as measured by the national average wage index.

A worker's earnings are adjusted, or "indexed," to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime. A certain number of years of earnings are needed to compute the average indexed monthly earnings. After the number of years is determined, those years with the highest indexed earnings are chosen, the indexed earnings are summed, and the total amount is divided by the total number of months in those years. The resulting average amount is then rounded down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 1995, the national average wage index for 1993, $23,132.67, is

divided by the national average wage index for each year prior to 1993 in which the worker had earnings. The actual wages and self-employment income, as defined in section 211(b) of the Act and credited for each year, is multiplied by the corresponding ratio to obtain the worker's indexed earnings for each year before 1993. Any earnings in 1993 or later are considered at face value, without indexing. The average indexed monthly earnings is then computed and used to determine the worker's primary insurance amount for 1995.

Computing the Primary Insurance Amount

The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The dollar amounts in the formula which govern the portions of the average indexed monthly earnings are frequently referred to as the "bend points" of the formula. Thus, the bend points for 1979 were $180 and $1,085.

The bend points for 1995 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1993, $23,132.67, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1995, the ratio is 2.3654391. Multiplying the 1979 amounts of $180 and $1,085 by 2.3654391 produces the amounts of $425.78 and $2,566.50. These must then be rounded to $426 and $2,567. Accordingly, the portions of the average indexed monthly earnings to be used in 1995 are determined to be the first $426, the amount between $426 and $2,567, and the amount over $2,567.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1995, or who die in 1995 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $426 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $426 and through $2,567, plus

(c) 15 percent of the average indexed monthly earnings over $2,567.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General

The 1977 amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a final rule published in the **Federal Register** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum

The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The dollar amounts in the formula which govern the portions of the primary insurance amount are frequently referred to as the "bend points" of the family-maximum formula. Thus, the bend points for 1979 were $230, $332, and $433.

The bend points for 1995 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1993, $23,132.67, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1995, the ratio is 2.3654391. Multiplying the amounts of $230, $332, and $433 by 2.3654391 produces the amounts of $544.05, $785.33, and $1,024.24. These amounts are then rounded to $544, $785, and $1,024. Accordingly, the portions of the primary insurance amounts to be used in 1995 are determined to be the first $544, the amount between $544 and $785, the amount between $785 and $1,024, and the amount over $1,024.

Consequently, for the family of a worker who becomes age 62 or dies in 1995 before age 62, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $544 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $544 through $785, plus

(c) 134 percent of the worker's primary insurance amount over $785 through $1,024, plus

(d) 175 percent of the worker's primary insurance amount over $1,024.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General

The 1995 amount of earnings required for a quarter of coverage is $630. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year).

Computation

Under the prescribed formula, the quarter of coverage amount for 1995 shall be equal to the larger of the current amount of $620 or the 1978 amount of $250 multiplied by the ratio of the national average wage index for 1993 to that for 1976. The national average wage index for 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage index for 1993 is

$23,132.67 as determined above. Section 213(d) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount

The ratio of the national average wage index for 1993, $23,132.67, compared to that for 1976, $9,226.48, is 2.5072043. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 2.5072043 produces the amount of $626.80, which must then be rounded to $630. Accordingly, the quarter of coverage amount is determined to be $630 for 1995.

"Old-Law" Contribution and Benefit Base

General

The 1995 "old-law" contribution and benefit base is $45,300. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation

The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments, but with the revised indexing formula introduced by section 321(g) of the "Social Security Independence and Program Improvements Act of 1994." Under the formula, the "old-law" contribution and benefit base shall be the larger of the current "old-law" base ($45,000) or the 1994 "old-law" base ($45,000) multiplied by the ratio of the national average wage index for 1993 to that for 1992. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount

The ratio of the national average wage index for 1993, $23,132.67 as determined above, compared to that for 1992, $22,935.42, is 1.0086002. Multiplying the 1994 "old-law" contribution and benefit base amount of $45,000 by the ratio of 1.0086002 produces the amount of $45,387.01 which must then be rounded to $45,300. Accordingly, the "old-law" contribution and benefit base is determined to be $45,300 for 1995.

OASDI Fund Ratio

General

Section 215(i) of the Act provides for automatic cost-of-living increases in OASDI benefit amounts. This section also includes a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified threshold, the automatic benefit increase is equal to the lesser of (1) The increase in the national average wage index or (2) the increase in prices. The threshold specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The law also provides for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases can occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation

Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1994 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1994 to (2) the estimated expenditures of the OASI and DI Trust Funds during 1994, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio

The combined assets of the OASI and DI Trust Funds at the beginning of 1994 equaled $378,285 million, and the expenditures are estimated to be $324,516 million. Thus, the OASDI fund ratio for 1994 is 116.6 percent, which exceeds the applicable threshold of 20.0 percent. Therefore, the stabilizer provision does not affect the benefit increase for December 1994. Although the OASDI fund ratio exceeds the 32.0-percent threshold for potential "catch-up" benefit increases, no past benefit increase has been reduced under the stabilizer provision. Thus, no "catch-up" benefit increase is required.

(Catalog of Federal Domestic Assistance: Program Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.804 Social Security-Special Benefits for Persons Aged 72 and Over; 93.805 Social Security-Survivors Insurance; 93.807 Supplemental Security Income)

Dated: October 25, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 94–26819 Filed 10–28–94; 8:45 am]

BILLING CODE 4190–29–P

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1994:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 9–11, 1994, 9:00 a.m.

Place: Holiday Inn Crowne Plaza, Presidential 2 Room, 1750 Rockville Pike, Rockville, Maryland 20852.

Open on November 9, 1994, 9:00 a.m.–10:00 a.m.

Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Maternal and Child Health Bureau.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Systems, Education and Science, Maternal and Child Health Bureau, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 9 at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Acting Associate Administrator for Policy Coordination, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should

contact Gontran Lamberty, Dr. P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443–2190.

Agenda Items are subject to change as priorities dictate.

Date: October 25, 1994.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 94–26882 Filed 10–28–94; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Issue a Prospectus for the Managememt and Operation of a Bowling Center

SUMMARY: The National Park Service is intending to issue a Prospectus for a Concession Contract to manage and operate a bowling center in San Francisco, California.

SUPPLEMENTARY INFORMATION: The Presidio of San Francisco has been transferred from the Department of Army to the National Park Service and is component of the Golden Gate National Recreation Area. A number of facilities will now become available for public use under the administration of the National Park Service. The Presidio Bowling Center is one of these facilities.

Built in 1989, specifically as a bowling center and food service facility, the building is approximately 12,800 square feet, adjacent to an ample parking area and within easy walking distance of public transportation.

The facility contains 12 synthetic lanes with fully automated Brunswick A2 pinsetters, AS80 scoring system and monitors, a pro-shop, lockers, a full compliment of house balls and shoes, food service facilities with a fully equipped kitchen, and accompanying furniture.

If you are interested in this business opportunity and wish to receive a copy of the Prospectus, the application, and all the pertinent information pertaining to this operation, please send your name and address to: National Park Service, Concession Program Management Division, Attention Phase One, 600 Harrison Street, Suite 600, San Francisco, CA 94107–1372, or call: (415) 744–3981—Teresa Jackson.

Applications will be accepted for Sixty (60) days under the terms described in the Prospectus. The Sixty (60) day application period will begin with the release of the Prospectus, which will occur shortly after the publication of this notice.

Dated: October 14, 1994.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 94–26828 Filed 10–28–94; 8:45 am]

BILLING CODE 4310–70–P

Willow Beach Development Concept Plan Amendment; Lake Mead National Recreation Area, Arizona and Nevada; Notice of Actions Proposed to be Located in or Impact a Floodplain and Notice of Availability of Final Supplemental Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service has prepared a supplemental environmental impact statement (SEIS), to the General Management Plan/Final Environmental Impact Statement (GMP/FEIS) for the Lake Mead National Recreation Area, in conjunction with an amended Development Concept Plan (DCP) for Willow Beach on the Arizona side of Lake Mohave. Pursuant to Executive Order 11988, Floodplain Management, the National Park Service has prepared a *Statement of Findings* for the proposed plan.

The DCP Amendment/SEIS describes and analyzes four alternative development concept plans for Willow Beach. The final proposal, Alternative C in the SEIS, differs in some minor respects from the draft proposal because of revisions in response to public comment. The proposal focuses on enhancement of visitor experience along the riverfront at Willow Beach with the addition of picnic areas, fishing piers, walkways, small docks, and additional parking. Parking spaces would be increased to 510 spaces from the existing 330. The existing trailer village, motel, a dry boat storage and restaurant/store, currently located within high hazard floodplain areas, would be eliminated. A new building consolidating retail, restaurant, visitor contact, restrooms, and fuel service functions would be constructed on the northern side of Willow Beach Wash, which would allow the launch ramp to be shifted to the north, moving these facilities farther from the main flood flows along the south side of the drainage. A 125-slip marina would be retained and consolidated in one area on the north end of Willow Beach Wash. A new campground would be constructed above Willow Beach Wash approximately one-half mile from the riverfront. Park and concession support facilities would be relocated. Flood mitigation would consist of a combination of flood warning system and evacuation plan, structural protection, and relocation or elimination of some existing facilities. All overnight facilities would be located outside of the main flood flows and structurally protected to the probable maximum flood level. Day use facilities would be located outside of the floodplains or structurally protected to the 100-year flood level. Alternative A, the no action alternative, would continue present conditions and uses within the floodplain, and flood protection would consist of non-structural measures limited to an early warning system and evacuation plan. Alternative B would retain existing uses in the floodplain but would add structural flood protection and relocate some facilities. Parking would be reduced to 224 spaces. Alternative D would allow for continued provision of a variety of visitor services at Willow Beach except that the motel and trailer village would be eliminated. A campground would be added, as in the proposal, and flood protection measures would be similar to the proposal and Alternative B. The proposal and alternatives were analyzed for impacts on public safety and property in floodplains, desert plant communities, water and air quality, species of special concern, visitor experience, trailer village occupants, concession operations, and cultural resources.

The *Statement of Findings* addresses floodplain aspects of the proposed plan, including mitigation and measures to minimize exposure of life and property.

SUPPLEMENTARY INFORMATION: The no-action period on the development concept plan will extend for 30 days after the notice of its availability is published by EPA in the **Federal Register**. Inquiries on the document should be addressed to: Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NV 89005, or by calling the Park at (702) 293–8986.

Review of the *Statement of Findings* will also conclude 30 days after the Notice is published by the EPA. Comments on this document should be sent to the Superintendent at the above address.

For copies of the DCP Amendment/SEIS or the *Statement of Findings*, or further information on the documents, please contact: Superintendent, Lake Mead National Recreation Area at the above address or telephone number.

Copies of the documents are available at park headquarters, libraries in the area and at the Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison Street, Suite 600, San Francisco, CA.

Dated: October 5, 1994.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 94–26827 Filed 10–28–94; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 153X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Maryville, TN

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.65-mile portion of its line of railroad between mileposts 15.84–KA and 16.49–KA, in Maryville, TN.

NS has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (3) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 30, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by November 10, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 21, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: James R. Paschall, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 4, 1994. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 21, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26869 Filed 10–28–94; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–303 (Sub-No. 13X)]

Wisconsin Central Ltd.—Abandonment Exemption—in Brown County, WI

Wisconsin Central Ltd. (WCL) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 13.9 miles of rail line between milepost 183.0 at Greenleaf, and milepost 196.9 at Green Bay, in Brown County, WI.

WCL has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 30, 1994 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 10, 1994.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 21, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[1] A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

applicant's representative: Janet H. Gilbert, Wisconsin Central Ltd., P. O. Box 5062, Rosemont, IL 60017–5062.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

WCL has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 4, 1994. Interested persons may obtain a copy of the EA from SEA by writing to it at (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEA at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 24, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26868 Filed 10–28–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Office of the Secretary

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

AGENCY: Employment and Training Administration, Labor.

ACTION: Information collection clearance package; expedited review under the Paperwork Reduction Act.

SUMMARY: The Employment and Training Administration (ETA), Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR part 1320 (53 FR 16618, May 10, 1988)), is submitting an information collection clearance package to the Office of Management and Budget (OMB). The information collection is required due to amendments to section 258 of the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) (INA). The amendments created an Alaska exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports. Under the Alaska exception, before any employer may use alien crewmembers to perform longshore work in the State of Alaska, it must submit an attestation to ETA containing the elements prescribed by the INA.

DATES: The Employment and Training Administration has requested an expedited review of this submission under the Paperwork Reduction Act; this OMB review has been requested to be completed by November 10, 1994.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the collection of information on Form ETA 9033–A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska, should be directed to Kenneth A. Mills, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210, ((202) 219–5095).

Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 3001, Washington, DC 20503, ((202) 395–7316).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Average Burden Hours Per Response: 3.

Frequency of Response: Annually.

Number of Respondents: 350.

Annual Burden Hours: 1,050.

Annual Responses: 350.

Affected Public: Businesses or other for-profit and Small businesses or organizations.

Respondents Obligation to Comply: Required to obtain or retain benefit.

Signed at Washington, DC, this 25th day of October, 1994.

Kenneth A. Mills,

Departmental Clearance Officer.

BILLING CODE 4510–30–P

Attestation by Employers Using Alien Crewmembers for Longshore Activities at Locations in the State of Alaska

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service

1. Full Legal Name of Company	5. Name of U.S. Agent	OMB Approval No.1205- Expires:
2. Headquarters Address (No., St., City, Town, State, Zip Code, Country)	6. U.S. Business Address of Agent (No., St., City, State, Zip Code)	DRAFT
3. Telephone (Area Code and Number)	7. Telephone (Area Code and Number)	
4. Name of Chief Executive Officer	Fax (Area Code and Number)	

8. EMPLOYER ATTESTATIONS (Use attachment if additional space is needed)

It is anticipated that longshore activities will be performed at the following times and locations in the State of Alaska:

First Performance of Activity (Month/Day/Year)	Location (name of port, city, or other geographical reference point)

☐ (a) Before using alien crewmen to perform any longshore activity, a bona fide request will be made to the parties to whom notice has been provided under item 8(d)(ii) and (iii) below, for United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity at the particular time and location, except that:

(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a labor organization described in 8(d)(i) below, the request for longshore workers may be made to only one such contract stevedoring company, and

(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshore and Harbor Workers' Compensation Act.

☐ (b) All United States longshore workers who are made available in response to the request for dispatch as attested at item 8(a) above and who are qualified, available in sufficient numbers, and needed to perform the longshore activity at the particular time and location, will be employed to perform such activity.

☐ (c) The use of alien crewmembers in my employ to perform any longshore activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska.

☐ (d) As of this date, notice of this attestation has been provided to (include copies of actual notices):

(i) Labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers and which make available or intend to make available longshore workers to the particular location(s) where the longshore work is to be performed;

(ii) Contract stevedoring companies which employ or intend to employ United States longshore workers at the particular location(s) where the longshore work is to be performed; and

(iii) Operators of private docks at which workers in my employ will perform any longshore activity.

9. DECLARATION OF EMPLOYER: Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form and accompanying documentation is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this attestation, supporting documentation, and other records, files and documents available to officials of the Department, upon such official's request, during any investigation under this attestation or the Immigration and Nationality Act.

Signature of Chief Executive Officer (or U.S. Agent or Representative) _____ Date

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this attestation is accepted for filing on _____ (date) and will be valid for the performance of longshore activities at locations in the State of Alaska herein attested to from _____ (beginning date) through _____ (date twelve months from beginning date).

Signature of Authorized DOL Official _____ ETA Case No.

Subsequent DOL action: Suspended _____ Invalidated _____ Withdrawn _____

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing.

Public reporting burden for this collection of information is estimated to average 3 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 Office of Information Management, Department of Labor, Room N-1301, 200 Constitution Ave., NW., Washington, DC 20210; ~~and to the Office of Management and Budget,~~ Paperwork Reduction Project (1205- ~~), Washington, DC 20503~~.

ETA 9033-A

ATTESTATION BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES AT LOCATIONS IN THE STATE OF ALASKA

DRAFT

IMPORTANT: READ CAREFULLY BEFORE COMPLETING FORM

Submit the completed original Form ETA 9033-A with accompanying documentation along with two copies of the form and accompanying documentation. Attestations must be received by the Department of Labor no later than 30 days prior to the first performance of the longshore activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time). Attestations which are filed less than 30 days prior to the first performance of the longshore activity must include supporting documentation to show that the employer could not have reasonably anticipated the need to file an attestation for that location at that time. Attestations must be submitted to the ETA regional office at 1111 3rd Ave., Suite 900, Seattle, WA 98101.

To knowingly furnish any false information in the preparation of this form and any supporting documentation thereto, or to aid, abet or counsel another to do so is a felony, punishable by $ 10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Other penalties apply as well to fraud and misuse of this immigration document (18 U.S.C. 1546) and to perjury with respect to this form (18 U.S.C. 1546 and 1621).

Print legibly in ink or use a typewriter. Sign and date one form in original signature. Citations below to "regulations" are citations to the identical provisions at 20 CFR Part 655, subparts F and G, and at 29 CFR Part 506, subparts F and G.

Item 1. Full Legal Name of Company. Enter full legal name of business, firm or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Headquarters Address. Self explanatory.

Item 3. Telephone Number. Include area code or international calling code.

Item 4. Name of Chief Executive Officer. Self explanatory.

Item 5. Name of U.S Agent. Self explanatory.

Item 6. U.S. Business Address of Agent. The address must be in the U.S.

Item 7. Telephone Number. Include fax number, if available.

Item 8. Employer Attestations. An employer must attest to the conditions listed in elements (a) through (d). The attestation will only be accepted for filing if the required documentation supporting elements 8(d) is attached to the Form ETA 9033-A. See § ____.537 of the regulations for guidance on the documentation that must be attached to the Form ETA 9033-A to support element 8(d).

Item 8(a). Bona Fide Request for Dispatch of U.S. Longshore Workers. The employer must attest that, before using alien crewmen to perform longshore work, he will make a bona fide request for U.S. longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular times and locations specified. The request for dispatch must be directed to the parties to whom notice of filing is provided under attestation element 8(d)(*ii*) and (*iii*). Wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a labor organization described in attestation element 8(d)(i), the employer may request longshore workers from only one of such contract stevedoring company. A request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 932). See § ____.534 of the regulations for a detailed explanation of this attestation element.

Item 8(b). Employment of all Qualified U.S. Longshore Workers Made Available in Sufficient Numbers. The employer must attest that all U.S. longshore workers made available in response to the request for dispatch under the first attestation element, item 8(a), who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular times and locations specified will be employed to perform such activity. See § ____.535 of the regulations for a detailed explanation of this attestation element.

Item 8(c). No Intention or Design to Influence Bargaining Representative Election. The employer must attest that the use of alien crewmembers to perform longshore activities is not intended or designed to influence an election for a bargaining representative for longshore workers in the State of Alaska. See § ____.536 of the regulations for a detailed explanation of this attestation element.

Item 8(d). Notice of Filing. The employer must attest that at the time of filing the attestation, notice of filing has been provided to labor organizations which have been recognized as exclusive bargaining representatives of U.S. longshore workers and which make available or intend to make available workers to the particular locations where the longshore work is to be performed. Notice must also be provided to contract stevedoring companies which employ or intend to employ U.S. longshore workers at those locations, and to operators of private docks at which the employer will use longshore workers. See § ____.537 of the regulations for a detailed explanation of this attestation element.

Item 9. Declaration of Employer. One copy of this form must bear the original signature of the chief executive officer (or the chief executive officer's U.S. agent or designated representative) unless filing by facsimile transmission. See § ____.533 of the regulations if filing by facsimile transmission. By signing this form, the chief executive officer is attesting to the conditions listed in items 8(a) through (d) and to the accuracy of the information provided elsewhere on the form and in the supporting documentation. False statements are subject to Federal criminal penalties, as stated above.

If the attestation bears the necessary entries of information and documentation, the Department of Labor may accept the attestation for filing and shall document such acceptance on each of the three Form ETA 9033-A's submitted. A copy of the attestation form indicating the Department's acceptance, or notification of nonacceptance, will be returned to the employer. A copy of this attestation, along with accompanying documentation, will be available for public inspection at the Division of Foreign Labor Certifications, United States Employment Service, Room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210.

BILLING CODE 4510-30-C

Appendix A—Supporting Statement Attestation by Employers Seeking To Utilize Alien Crewmembers To Perform Longshore Activities

(1) The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are promulgating regulations governing the filing and enforcement of attestations by employers seeking to use alien crewmembers to perform longshore activities at locations in the State of Alaska.

The attestation process is to be administered by ETA; complaints and investigations regarding attestations are the responsibility of ESA.

The Coast Guard Authorization Act of 1993, Public Law 103–206, 107 Stat. 2419 (Act), was enacted on December 20, 1993. Among other things, the Act amended section 258 of the INA (8 U.S.C. 1101 *et seq.*) by creating an Alaska exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports.

An employer seeking to employ alien crewmembers at locations in the State of Alaska under the Alaska exception shall submit an attestation. An attestation must be filed by each individual employer but may apply to multiple vessels and multiple locations within the State of Alaska.

(2) The Department proposes to review an attestation to ensure that it is received at least 30 days before the date of the first performance of the longshore activity, unless the employer could not have reasonably anticipated the need to file an attestation for that location at that time. In no case, however, will ETA accept an attestation received less than 24 hours prior to the date of the first performance of the activity.

The Department will review an attestation to assure that it is signed, completed, contains no obvious inaccuracies, and is not, on its face, inconsistent with the documentation submitted in support thereof. In addition, the Department proposes that it will review attestations to determine the following: (1) Whether the Administrator, Wage and Hour Division, has notified ETA of a determination that an employer has misrepresented or failed to comply with an attestation previously submitted and accepted for filing, barring the employer from entry to any U.S. port for up to one year; (2) whether the Administrator has issued a cease and desist order that would affect the attesting employer and location at which longshore work is to be performed; and (3) whether the Administrator has advised ETA that the employer has failed to comply with any penalty or remedy assessed.

If the attestation is properly filled out and includes accompanying documentation for the requirement at §_____.537 of the subpart, and does not fall within one of the categories set forth at paragraph (b) of §_____.538, ETA shall accept the attestation for filing, notify the INS in writing of the filing, and return to the employer one copy of the attestation form submitted, with ETA's acceptance indicated thereon. The employer may then utilize alien crewmembers for the longshore work at the locations cited in the attestation in accordance with subpart F of part 655 and with INS regulations.

ETA shall make available for public examination in Washington, D.C., a list of employers which have filed attestations, and for each such employer, a copy of the employer's attestation and accompanying documentation it has received.

(3) It is anticipated that the documentation required to satisfy the attestation elements is available from existing data sources, and that the burden will be considerably less in the second and subsequent years in which the employer submits an attestation.

(4) The procedures and documentation requirements are sufficiently specific to avoid duplication of activities. At the same time, the procedures establish a process that will facilitate investigations of complaints against employers and enforcement of sanctions where necessary. The regulations set forth a process which: (1) requires attestations that are specific with respect to employer statements and promises; (2) limits the Department's review of an attestation to a simple check to assure that it is signed, completed, contains no obvious inaccuracies, and is not, on its face, inconsistent with the documentation submitted in support thereof; (3) describes the information that employers must retain to document the validity of their statements; and (4) establishes a system for the receipt of complaints, and their investigation and disposition, including the imposition of penalties where warranted.

(5) Section 258 of the INA prohibits the use of alien crewmembers to perform longshore activity in U.S. ports with five exceptions as follows:

(a) Where the vessel's country of registration does not prohibit U.S. crewmembers from performing longshore work in that country's ports and nationals of a country which does not prohibit U.S. crewmembers from performing longshore work in that country's ports hold a majority of the ownership interest in the vessel;

(b) Where there is in effect in a local port one or more collective bargaining agreement(s), each covering at least 30 percent of the longshore workers at a particular port and each permitting the activity to be performed by alien crewmembers;

(c) Where there is no collective bargaining agreement covering at least 30 percent of the longshore workers and an attestation has been filed with the Department which states that the use of alien crewmembers to perform longshore work is permitted under the prevailing practice of the port, that the use of alien crewmembers is not during a strike or lockout, that such use is not intended or designed to influence the election of a collective bargaining representative, and that notice has been provided to longshore workers at the port;

(d) Where the activity is performed with the use of automated self-unloading conveyor belts or vacuum-actuated systems; *provided that,* the Secretary of Labor (Secretary) has not found that an attestation is required because it was not the prevailing practice to utilize alien crewmembers to perform the activity or because the activity was performed during a strike or lockout or in order to influence the election of a collective bargaining representative; and

(e) Where the longshore work is to be performed at a particular location in the State of Alaska and an attestation with accompanying documentation has been filed with the Department of Labor attesting that, among other things, before using alien crewmen to perform the activity specified in the attestation, the employer will make a bona fide request for and employ United States longshore workers who are qualified and available in sufficient numbers from contract stevedoring companies, labor organizations recognized as exclusive bargaining representatives of United States longshore workers, and private dock operators.

In developing the joint interim final regulations to implement Section 258 of the INA at 20 CFR part 655, subparts F and G, and at 29 CFR part 505, subparts F and G, the Department has carefully considered the issues pertinent to the filing of attestations by employers to use alien crewmembers to perform longshore activities in the State of Alaska.

The Department proposes to review an attestation only to ensure that it is timely, completed properly, includes the required documentation, and that

the documentation is not, on its face, inconsistent with the attestation.

This interim final rule does not include an administrative appeals process within ETA for attestations. When an attestation is returned because it is untimely, improperly completed, or lacking proper documentation, an employer may resubmit another attestation to the Department.

Attestations which are accepted by ETA may be objected to by any aggrieved party through the complaint process under subpart G, and procedures for investigation, hearing and appeal are provided therein. In the event a complaint is filed with the Department, the employer must have sufficient documentation available on file at the place of business of its U.S. agent to meet the burden of proof for the validity of each attestation element. Documentation submitted or retained pursuant to this part shall either be in English or be accompanied by an English translation.

The Department believes that this is consistent with the statute's intent for a streamlined attestation system for filing and a complaint-driven process for the enforcement of the law's sanctions for violators.

(6) The Department has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Nevertheless, interested parties are requested to submit, as part of their comments on this rule, information on the potential economic impact of the rule.

(7) The Department would be in direct violation of the law and regulations if this information were not collected.

(8) This data collection is consistent with 5 CFR 1320.6.

(9) Efforts to consult with persons outside the agency to obtain their views on data availability, collection and reporting will involve consideration of comments and responses on the interim final regulations published in the **Federal Register** and the rule-related notice. All comments will be considered in developing final regulations.

(10) Documentation is not exempt from disclosure under the FOIA. Public law requires that all attestations be available for public inspection at the Department.

(11) Does not involve sensitive questions.

(12) *Federal Government Cost—$16,162.50.*

The average Federal Government cost for the year of operation is estimated at $16,162.50 as follows:

Estimated Hours

Data Entry/Review—.75 hour
Process/transmittal—.25 hour

Staff Cost Per Attestation—$14.75

Professional (11 level, step 5)—

$19.10×.50 hr	=	$9.55

Clerical (5 level, step 5)—

$10.41×.50 hr	=	5.20
		$14.75

Estimated Total Cost—$16,162.50

Staff $14.75×350	=	$5,162.50
Equipment (computer hardware)		10,000.00
Printing		1,000.00
		$16,162.50

(13) ETA estimates that approximately 350 attestations per year will be submitted. The public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining information, completing and reviewing the application, and providing the notice of filing.

The overall hours needed for each respondent to produce the required information:

350×.50 hr. (review instructions)	=	175.00
350×1 hr. (compile info./file)	=	350.00
350×.75 hr. (complete/submit/provide notice)	=	262.50
350×.75 hr. (documentation/maintenance)	=	262.50
10×.25 hr. (file complaints)	=	2.50
Total Hours		1052.50

The estimated time for information collection, processing, review and maintenance is based on the Department's operating experience under the existing program governing attestations under the prevailing practice exception. The estimate is further derived through experience and testing of forms completion and information collection activities.

The estimated level of attestations for the year is based upon the Department's operational experience under the existing program governing attestations under the prevailing practice exception. At present the Department has no information basis for projecting employer burden for subsequent years. This is a new program and it is not clear how the following variable will impact program workload:

(1) The attestation may be filed for multiple locations in the State of Alaska. Under the existing program governing the performance of longshore work by alien crewmembers under the prevailing practice exception, an attestation must be filed for each port at which an employer intends to utilize alien crewmembers.

(14) This is a new data collection request. This data collection will count as a +1,050 hour program change towards ETA's Information Collection Budget.

(15) No collection of information will be published for statistical use.

[FR Doc. 94–26994 Filed 10–28–94; 8:45 am]
BILLING CODE 4510–30–P

Commission on the Future of Worker-Management Relations; Amendment to the Charter

AGENCY: Office of the Secretary, Labor.

ACTION: Amendment to the Charter.

Notice is hereby given that after consultation with the General Services Administration, it has been determined that the Commission on the Future of Worker-Management Relations, whose charter will expire on November 23, 1994, is hereby extended for a duration of six months (May 23, 1995). This action is necessary and in the public interest. The Commission will report to both the Secretary of Labor and the Secretary of Commerce.

The Commission is charged to address the following questions:

(1) What (if any) new methods or institutions should be encouraged or required, to enhance productivity through labor-management cooperation and employee participation?

(2) What (if any) changes should be made in the present legal framework and practice of collective bargaining to enhance cooperative behavior, improve productivity, and reduce conflict and delay? and

(3) What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties themselves, rather than through recourse to state and federal courts and regulatory bodies?

The Commission will submit to the Secretaries a final report including recommendations based on its Fact Finding Report, submitted in May 1994, and subsequent hearings and related activities. After the final report has been completed time will be needed for consultation and appropriate follow-up with full respect for the timely conclusion of the work of the Commission.

The Commission consists of approximately ten individuals drawn from the academic community, workers, management and the general public. The Commission functions solely as an advisory body and in compliance with the terms of the Federal Advisory Committee Act. Its charter is being extended at this time in accordance with approval by the General Services Administration pursuant to 41 CFR 101–6.2015 (a)(2).

Signed at Washington, D.C. this 26th day of October, 1994.

Dated: October 26, 1994.

Robert B. Reich,

Secretary of Labor.

Dated: October 26, 1994.

Ronald H. Brown,

Secretary of Commerce.

[FR Doc. 94–26945 Filed 10–28–94; 8:45 am]

BILLING CODE 4510–23–M

Commission on the Future of Worker-Management Relations; Notice of Closing the Public Record

AGENCY: Office of The Secretary, Labor.

ACTION: Notice of closing the public record.

SUMMARY: The Commission on the Future of Worker-Management Relations was established in accordance with the Federal Advisory Committee Act (FACA) Public Law 92–463. Pursuant to Section 10(a) of FACA, this is to announce that as of November 14, 1994, the Commission will close the public record with respect to the preparation and submission of its final report, including recommendations, to the Secretary of Labor and the Secretary of Commerce.

Those who wish to make comments on matters already on the record should do so by November 14, 1994.

Individuals or organizations wishing to submit written statements should send them to Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, Room C–2318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 219–9148, fax (202) 219–9167.

Signed at Washington, DC, this 26th day of October, 1994.

June M. Robinson,

Designated Federal Official.

[FR Doc. 94–26946 Filed 10–28–94; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company; Donald C. Cook Nuclear Power Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of the licensee's request to leave approximately 942 cubic meters of slightly contaminated sludge in place underneath the upper parking lot on the D.C. Cook site. This was proposed by Indiana Michigan Power Company (the licensee) for the D.C. Cook Plant, located in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action by the NRC would approve the disposal of contaminated sludge by leaving it in place at the facility, as proposed by the licensee's request dated October 9, 1991, as supplemented October 23, 1991, September 3, 1993, and September 29, 1993. The request for approval is submitted pursuant to 10 CFR 20.2002. The total volume of contaminated sludge is estimated to be 942 cubic meters.

The Need for the Proposed Action

In 1982, approximately 942 cubic meters of slightly contaminated sludge were removed from the turbine room sump absorption pond and pumped to the upper parking lot located within the exclusion area of the D.C. Cook plant. The contaminated sludge was spread over an area approximately 4.7 acres. The sludge contains a total radionuclide inventory of 8.86 millicuries (mCi) of Cesium-137, Cesium-136, Cesium-134, Cobalt-60, and Iodine-131.

Environmental Impacts of the Proposed Action

The licensee in 1982 evaluated the following potential exposure pathways to members of the general public from the radionuclides in the sludge: (1) external exposure caused by groundshine from the disposal site, (2) internal exposure caused by inhalation of resuspended radionuclide, and (3) internal exposure from ingesting ground water. The staff has reviewed the licensee's calculational methods and assumptions and finds that they are consistent with NUREG–1101, "Onsite Disposal of Radioactive Waste," Volumes 1 and 2, November 1986 and February 1987, respectively. The staff finds the assessment methodology acceptable. The table below lists the doses calculated by the licensee for the maximally exposed member of the public based on a total activity of 8.89 mCi disposed in that year.

Pathway	Whole body dose received by maximally exposed individual (mrem/yr)
Groundshine	0.94
Inhalation	0.94
Groundwater Ingestion	0.73
Total	2.61

For perspective, the radiation from the naturally occurring radionuclides in soils and rocks plus cosmic radiation gives a person in Michigan a whole-body dose rate of about 89 mrem per year outdoors, which may be altered as much as 20 mrem per year by the type of construction of the person's residence (e.g., wood frame or brick) and the amount of time spent in it.

On July 5, 1991, the licensee re-sampled the onsite disposal area to assure that no significant impacts and adverse effects had occurred. A counting procedure based on the appropriate environmental low limit detection was used by the licensee; however, no activity above background was detected during the re-sampling. The 1991 re-sampling process used by the licensee confirms that the environmental impact of the 1982 disposal was very small. The staff finds the licensee's methodology acceptable.

The staff has evaluated the impacts of leaving the contaminated sludge in place, and finds that the potential environmental impacts are insignificant.

With regard to the nonradiological impacts, the staff has determined that leaving the soil in place has the smallest impact when compared to the principal alternatives discussed below.

Alternatives to the Proposed Action

The principal alternative to leaving the contaminated sludge in place would be to dig it up, package it in 55-gallon drums or other suitable containers, and ship it to a disposal facility licensed to dispose of low-level radioactive waste. This would be costly, requiring, for example, the removal of the parking surface over the disposal area, and would not provide environmental benefits in that no measurable radioactivity has been detected from the material. On the basis of the above analysis and evaluations and after

weighing the environmental, technical, and other benefits against the environmental costs, the staff concludes that the action called for under NEPA and 10 CFR Part 51 is the issuance of an approval of the proposed waste disposal.

Alternative Use of Resources

The principal result of this action does involve the use of resources beyond the scope anticipated in the Environmental Impact Statement issued August 1973, for normal plant operations; however, this additional use of land is not significant, as the area involved is located underneath the upper parking lot. This action involves no other critical materials or resources.

Agenices and Persons Consulted

The staff consulted with the State of Michigan regarding the environmental impact of the proposed action. The State had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action. Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letters dated October 9, 1991, October 23, 1991, September 3, 1993, and September 29, 1993. These letters are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC 20555 and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 24th day of October 1994.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–26885 Filed 10–28–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–286]

Power Authority of the State of New York; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.3, Type C Tests, to the Power Authority of the State of New York (the licensee) for the Indian Point Nuclear Generating Unit No. 3 (IP3), located in Westchester County, New York.

Environmental Assessment

Identification of Proposed Action

The licensee would be exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, to the extent that a one-time schedular extension would be allowed for performing Type C local leak rate tests (LLRTs) on Residual Heat Removal (RHR) containment isolation valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870. These LLRTs are currently required to be performed at intervals no greater than 30 months. The one-time schedular exemption would allow Type C LLRTs of the above listed valves to be deferred until the 9/10 refueling outage, which is currently scheduled for the spring of 1996.

By letter dated September 29, 1994, the licensee applied for a Technical Specifications (TSs) amendment and requested an Exemption from the Code of Federal Regulations requirements to allow Type C LLRTs to be deferred for the above listed RHR system valves until the 9/10 refueling outage.

The Need for the Proposed Action

The licensee commenced operating on 24-month fuel cycles, instead of the previous 18-month fuel cycles, starting with fuel cycle 9. Fuel cycle 9 started in August 1992. The requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.3, indicate that Type C LLRTs must be performed during each reactor shutdown for refueling at intervals no greater than 2 years (24 months). On January 12, 1993, the NRC staff issued an exemption to the licensee that allowed Type C LLRTs to be performed at intervals up to 30 months, thus, permitting operation on a 24-month fuel cycle.

Approximately 6 months after startup from the 8/9 refueling outage, IP3 began an extended unplanned non-refueling outage. Startup from the outage is currently expected for early 1995. After startup from the current outage, the plant will run until its next scheduled refueling outage (RFO 9/10) which is scheduled to begin in spring of 1996. In November and December of 1994 the RHR containment isolated valves AC–732, AC–741, AC–MOV–743, AC–MOV–744, and AC–MOV–1870 are due for their Type C LLRTs. Currently, the interval for Type C testing of these valves is 30 months. These LLRTs are normally performed during a refueling outage when the reactor is defueled and the RHR system is not providing a source of cooling water. The current outage is a non-refueling outage, therefore, the reactor is not defueled and RHR system is providing core cooling water. The licensee's procedure and the system design require the RHR system to be out-of-service in order to perform the LLRTs. If the RHR system is taken out-of-service to perform the LLRTs the reactor would not have a reliable source of cooling water to remove decay heat. Therefore, the licensee is requesting a one-time schedular exemption to allow Type C LLRTs of the above listed valves to be deferred until the 9/10 refueling outage, which is currently scheduled for the spring of 1996.

Environmental Impacts of the Proposed Action

The proposed one-time exemption does not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption does not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous LLRTs performed at IP3, and has provided the methodology used in extrapolating the previous LLRT data to the proposed one time increase in the surveillance interval. The licensee has provided a sound basis for concluding that the containment leakage rate would be maintained within acceptable limits with the one time extension of the LLRT interval to the refueling outage 9/10. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption only involves LLRTs on containment penetrations and isolation valves. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded that there are no significant environmental effects that would result from the proposed exemption, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the licensee's request for exemption. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Related to the Operation of Indian Point Nuclear Generating Plant Unit No. 3," dated February 1975.

Agencies and Persons Consulted

The NRC staff consulted with the New York State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based on the foregoing 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 exemption under consideration.

For further details with respect to this action, see the licensee's application for exemption dated September 29, 1994. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 21st day of October 1994.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–26884 Filed 10–28–94; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–8014 (which should be mentioned in all correspondence concerning this draft guide), is a proposed revision to Regulatory Guide 8.13, "Instruction Concerning Prenatal Radiation Exposure." This guide is being revised to provide guidance on instructions that must be provided concerning prenatal radiation exposure. In particular, the instructions described in this guide are intended to provide the information needed by women who became pregnant to help them make an informed decision on whether or not to formally declare their pregnancy in accordance with regulations.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. It has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the draft guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments will be most helpful if received by March 17 1995.

Although a time limit is given for comments on this draft, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 6th day of October 1994.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 94–26883 Filed 10–28–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34884; File No. SR–NASD–94–53]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Transmittal of Forms T

October 24, 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, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change providing for technical amendments to the NASD's transaction reporting rules.

The NASD has designated this proposal as constituting a stated policy, practice or interpretation with respect to the administration and enforcement of existing reporting rules, permitting it to become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b–4 under the Act. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing a rule change that effects a technical amendment to the existing transaction reporting rules. The amendatory language specifies that transaction data reported via Form T shall be sent to the NASD's Market Surveillance Department of Rockville, Maryland. Specifically, the reporting provisions of Parts X, XI, XII and XIII of Schedule D, and Section 2 of Schedule G to the NASD By-Laws are amended to reflect that transaction data reported via Form T shall be reported to the NASD's Market Surveillance Department in Rockville, Maryland, rather than to the Market Operations Department in Trumbull, Connecticut.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in

Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 11, 1994, the Commission approved a series of parallel changes to the NASD rules governing transaction reporting in Nasdaq National Market® securities, Nasdaq SmallCap℠ securities, Nasdaq convertible debt securities, over-the-counter equity securities, and exchange-listed securities eligible for inclusion in the Consolidated Quotations Service.[1] Essentially, these amendments eliminated the manually prepared Form T as the principal means of reporting transactions in the foregoing categories of securities when such transactions are executed outside normal market hours (9:30 a.m. to 4:00 p.m. E.T.) or outside the hours of the Automated Confirmation Transaction Service ("ACT") (currently 9:00 a.m. to 5:15 p.m. E.T.). Instead, the covered transactions will be reported electronically through ACT either on trade date or the next business day. Nevertheless, the amended rules still permit the use of Form T in the event of a system outage or other unusual circumstance that precludes electronic entry of trade reports by a member firm.

The sole purpose of this rule change is to specify that the Forms T be directed to the NASD's Market Surveillance Department in Rockville, Maryland rather than the Market Operations Department in Trumbull, Connecticut. The Market Surveillance Department compiles and utilizes Form T data for regulatory purposes. At this point, there is no longer any operational reason for the Market Operations Department to be the initial recipient of Form T data.

The NASD believes that this proposed rule is consistent with Section 15A(b)(2) and (b)(6) of the Act. Section 15A(b)(2) requires that a national securities association be appropriately organized and have the capacity to enforce member firms' compliance with all applicable provisions of the Act as well as its own rules. Section 15A(b)(6) requires, among other things, that the association's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and, in general, to protect investors and the public interest. The instant rule change is consistent with these statutory provisions because it will expedite the receipt of Form T transaction data, which is collected and analyzed for regulatory purposes, by the department responsible for that regulatory function. Hence, the end result is greater efficiency in the processing of Forms T by the NASD's Market Surveillance staff.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4 because the proposal has been filed as constituting a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 21, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–26826 Filed 10–28–94; 8:45 am]

BILLING CODE 8010–01–M

[1] See Securities Exchange Act Release No. 34527 (August 11, 1994); 59 FR 42613 (August 18, 1994).

[2] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2749]

Georgia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 19, 1994 I find that the Counties of Bryan, Camden, Chatham, Decatur, Grady, and Tift in the State of Georgia constitute a disaster area as a result of damages caused by severe weather, heavy rains, flooding, high winds, and tornadoes beginning on October 1, 1994 and continuing. Applications for loans for physical damage may be filed until the close of business on December 17, 1994, and for loans for economic injury until the close of business on July 19, 1995, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, Georgia 30308 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baker, Berrien, Brantley, Bulloch, Charlton, Colquitt, Cook, Effingham, Evans, Glynn, Irwin, Liberty, Miller, Mitchell, Seminole, Thomas, Turner, and Worth in Georgia; Jasper County in South Carolina; and Gadsden, Jackson, Leon, and Nassau Counties in Florida.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Business with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000

	Percent
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 274906. For economic injury the numbers are 838000 for Georgia; 838100 for South Carolina; and 838200 for Florida.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 21, 1994.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 94–26821 Filed 10–28–94; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2748]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 18, 1994, and an amendment thereto on October 21, I find that the counties of Angela, Austin, Bastrop, Brazoria, Brazos, Burleson, Chambers, Fayette, Galveston, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Lee, Liberty, Madison, Montgomery, Nacogdoches, Orange, Polk, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Victoria, Walker, Waller, Washington, and Wharton in the State of Texas constitute a disaster area as a result of damages caused by severe storms and flooding beginning on October 14, 1994 and continuing. Applications for loans for physical damage may be filed until the close of business on December 19, 1994, and for loans for economic injury until the close of business on July 19, 1995, at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Boulevard, suite 102, Fort Worth, Texas 76155 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Anderson, Caldwell, Calhoun, Cherokee, Colorado, DeWitt, Fort Bend, Goliad, Gonzales, Lavaca, Leon, Matagorda, Milam, Newton, Panola, Refugio, Robertson, Rusk, Sabine, Travis, and Williamson in Texas, and Calcasieu, Cameron, DeSoto, and Sabine Parishes in Louisiana.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (Including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elswhere	4.000

The number assigned to this disaster for physical damage is 274806. For economic injury the numbers are 837800 for Texas and 837900 for Louisiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 21, 1994.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 94–26822 Filed 10–28–94; 8:45 am]

BILLING CODE 8025–01–M

Privacy Act of 1974; Computer Matching Programs

AGENCY: Small Business Administration.

ACTION: Notice of computer matching programs.

SUMMARY: Pursuant to the Privacy Act of 1974, the Small Business Administration (SBA) is giving notice of its intent to participate in two computer matching programs. The matches will compare records of delinquent SBA disaster home loan debtors against records of United States Postal Service employees and against records of Federal employees and military members, active or retired. If matches are found, SBA will use the information to collect the delinquent debt through salary offset or administrative offset.

DATES: This proposed action will become effective November 30, 1994, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects to the conduct of the matches. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Chief, Freedom of Information/Privacy Acts Office, 409 Third Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Walter C. Intlekofer, Deputy Director, Office of Portfolio Management, Small Business Administration, 409 Third Street, SW., Washington, DC 20416. (202) 205–6481.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (0) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the SBA has entered into agreements to conduct computer matching programs with two recipient agencies, the Department of Defense, Defense Manpower Data Center (DoD, DMDC) and the United States Postal Service (USPS). The purpose of the matches is to compare SBA delinquent loan data with personnel records stored at the DoD, DMDC and USPS to determine whether SBA can proceed with salary or administrative offset against the salaries or other benefits of delinquent debtors pursuant to the Debt Collection Act of 1982. The DoD records contain information on Federal personnel, civilian and military, employed and retired. The USPS records contain information on USPS employees.

SBA will provide tapes or other magnetic media containing delinquent debtor data to DoD and USPS. DoD and USPS will perform the matches, return SBA's data, and report any "hits". A DoD "hit" will show that a delinquent debtor is a Federal employee, a retired Federal employee, an active member of the military, or a retired member of the military. A USPS hit will show that the delinquent debtor is a USPS employee.

The records to be matched are contained in Privacy Act Systems in each agency. SBA, the source agency, will extract names and Social Security numbers from "Litigation and Claims Files SBA–070" and "Loan Case Files SBA 075" published in the **Federal Register** on February 26, 1991, and revised on May 14, 1992 at 57 FR 20726. DoD DMDC will match the SBA information against "Federal Creditor Agency Debt Collection Data Base, S322.11 DMDC" published at 58 FR 10875 on February 22, 1993. USPS will match the SBA data against "Finance Records—Payroll System, USPS 050.020," published at 57 FR 57515 on December 4, 1992. The matching program will begin on the effective date of this notice and be effective for 18 months. It may be extended for 12 months after that.

SBA will learn the debtor's service or agency, category and current work or home address. SBA will use the information to collect the delinquent debt through administrative or salary

offset as provided by the Debt Collection Act of 1982 and SBA regulations.

The parties to these agreements have determined that a computer matching program is the most efficient, effective and expeditious method of obtaining and processing the information needed to determine whether SBA delinquent debtors are receiving salaries or other benefits that can be offset. Computer matching also appears to be the manner to accomplish this task with the least amount of intrusion into the personal privacy of the individuals concerned. The principal alternative to using a computer matching program for identifying such employees would be a manual comparison of all records of SBA delinquent debtors with the records of all military members and all Federal civilian employees and all Federal retirees.

Copies of the computer matching agreements between DoD and SBA and between USPS and SBA are available to the public upon request. Requests should be submitted to the Chief, Freedom of Information/Privacy Acts Office, 409 Third Street, SW., Washington, DC 20416.

The matching agreements and an advance copy of this notice must be submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. These matching programs are subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: October 5, 1994.

Cassandra M. Pulley,

Acting Administrator.

[FR Doc. 94–26886 Filed 10–28–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2107]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Lifesaving, Search and Rescue; Notice of Meeting

The Working Group of Lifesaving, Search and Rescue of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on Friday, November 18, 1994 in Room 5303 at Coast Guard Headquarters, 2100 Second Street S.W., Washington, DC.

The purpose of the meeting is to prepare and coordinate U.S. positions for the 26th Session of the International Maritime Organization (IMO) Sub-Committee on Lifesaving, Search and Rescue (LSR), to be held March 27–31, 1995, at the IMO Headquarters in London. Specific items to be discussed include:

—Review of SOLAS Chapter III Amendments approved by the LSR Sub-Committee at its last session for forwarding to the Maritime Safety Committee (MSC) for circulation
—Draft revisions to the Recommendation on Testing and Evaluation of Life-Saving Appliances, particularly new sections on marine evacuation systems and "anti-exposure suits," and a draft proposal for inflatable liferaft fabric performance requirements
—A draft U.S. proposal for standardized reporting formats for prototype testing of lifesaving equipment
—Shipboard safety emergency plans, and guidelines for emergency escape arrangements on passenger ships
—Matters concerning Search and Rescue (SAR), including harmonization of aeronautical and maritime SAR procedures

The IMO LSR Sub-Committee works to develop international agreements, guidelines, and standards for Search and Rescue and for lifesaving equipment installed on commercial ships. Because of the potential impact of the Sub-Committee's work on U.S. regulations and standards, the U.S. SOLAS Working Group serves as an excellent forum for the U.S. maritime industry to express their ideas in the areas under the Sub-Committee's purview. Members of the public may attend this meeting up to the seating capacity of the room.

For further information contact Mr. Kurt J. Heinz at (202) 267–1444, U.S. Coast Guard Headquarters (G–MVI–3/1404), 2100 Second Street S.W., Washington, DC 20593–0001.

Dated: October 20, 1994.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 94–26916 Filed 10–28–94; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27955]

Policy for Letter of Intent Approvals Under the Airport Improvement Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy; request for comments.

SUMMARY: The FAA is clarifying its policies on reviewing and analyzing requests for Letters of Intent (LOIs) under the Airport Improvement Program (AIP) or successor programs. The FAA will consider three factors in reviewing requests for LOIs: the project's effect on overall national air transportation system capacity; project benefit and cost; and the airport sponsor's financial commitment, including project timing. The FAA also solicits comments on the new policy. Following review of the comments, the FAA may revise this policy.

DATES: The comment closing date is November 30, 1994.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Airport Planning and Programming, Attn: Mr. Stan Lou (APP–520), room 614, 800 Independence Avenue, SW, Washington, DC 20591. Comments must be marked: Policy for Letter of Intent Approvals Under Airport Improvement Program.

FOR FURTHER INFORMATION: Contact Stan Lou, FAA, Programming Branch, APP–520, room 614, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–8809.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are invited on this notice of policy and all communications received on or before the closing date for comments will be considered by the FAA. FAA may subsequently issue a change to this policy after considering the comments.

Background

In 1987, legislation was enacted authorizing the issuance of LOI's. The Codification of Certain U.S. Transportation Laws as Title 49, United States Code, Public Law No. 103–272, (July 5, 1994), section 47110(e)(2)(C) states:

The provisions of this subsection applies to a project the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.

Section 47115(d) states:

In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—(1) the effect the project will have on the overall national air transportation system capacity; (2) the project benefit

and cost; and (3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

General

The FAA is authorized to issue an LOI for certain airport development projects when current obligating authority is not timely or adequate to meet a sponsor's desired timing for a project. Under this provision, a sponsor may notify the FAA of an intention to carry out a project without Federal funds and request that the FAA issue an LOI. The FAA evaluates the proposal and, if approved, issues a letter stating that reimbursement will be made according to a given schedule, as funds become available. A sponsor who has received an LOI, therefore, may proceed with a project without waiting for an AIP grant, is assured that all allowable costs related to the approved project remain eligible for reimbursement, and may receive more favorable financing to pay related costs on the basis of announced Federal support for the project.

Discussion

Since FY 1987, the FAA has issued 48 LOI's (43 at primary airports and 5 at reliever airports). The total payments contemplated in these LOI's total nearly $2 billion ($1.5 billion of discretionary and $0.5 billion of entitlements). Of this, $0.9 billion has been granted to airports. The balance of $1.1 billion would be granted to airports through the year 2005. These LOIs include $0.8 billion discretionary and $0.3 billion entitlements. The following chart summarizes this information.

LOI PAYMENT SCHEDULE

	Entitlement	Discretionary	Total
(2) FY 1988–1994			
Primary	$244,630,376	$549,608,584	$794,238,960
Reliever	173,053	88,540,096	88,713,149
Subtotal	244,803,429	638,148,680	882,952,109
(2) FY 1994–2005			
Primary	277,208,862	719,185,089	996,393,951
Reliever	0	112,000,000	112,000,000
Subtotal	277,208,862	831,185,089	1,108,393,951
Total	522,012,291	1,469,333,769	1,991,346,060

At the beginning of each fiscal year, the FAA, in its administration of the AIP, sets aside the amounts of discretionary funds to "cover" the LOI payment schedules. For the primary airports, the main sources of the discretionary funds are the "capacity, safety, security, noise (CSSN)" set aside and the remaining discretionary. For reliever airports, the source is the 5 percent "reliever" set aside.

In the first 5 years of administering the LOI component of the AIP, the overall level of the AIP increased from $1.2687 billion in FY 1988 to $1.9 billion in FY 1992, and then decreased to $1.8 billion in FY 1993, $1.69 billion in FY 1994, and $1.45 billion in FY 1995. The amount of CSSN and remaining discretionary likewise increased from $205.1 million to $524.8 million in FY 1992, and decreased to $299.9 million in FY 1993 but has now stabilized at $325 million annually in current legislation. During these years, the FAA initially established an administrative policy that no more than 50 percent of the available CSSN discretionary would be committed to LOI's. In FY 1992, this policy was amended to include both CSSN and remaining discretionary. The FAA worked closely with airport sponsors to develop work programs and LOI payout schedules which maintained the 50 percent rule. We expect to maintain this policy. Reliever LOI's were not routinely used as a funding vehicle since most reliever sponsors cannot "up front" the construction costs.

The convergence of growing demand and reduced availability of AIP discretionary funds dictates a new strategy for approval of LOI's. For the foreseeable future, the overall level of the AIP may not increase. This is primarily the result of budgetary pressures. Secondly, the amount of available discretionary funds has diminished from the level available in FY 1992 to the current level of no less than $325 million annually. Against this discretionary level, numerous airport sponsors are requesting LOI's for many important projects. The FAA, therefore, has developed this policy to consider competing LOI requests.

Policy—The FAA intends to consider requests for Letters of Intent (LOI) under the Airport Improvement Program (AIP) (or successor programs) at primary or reliever airports only for airside development projects with significant capacity benefits. This focus is intended to maximize the systemwide impact of capacity projects, especially given the limited amounts of funds available for LOI projects. The FAA will use this policy in considering all future LOI requests.

The FAA's decision to approve an LOI will be made based primarily on a benefit-cost analysis. This analysis will consider local and systemwide benefits in terms of annual aircraft delay savings, measured as the avoided costs of operating delayed aircraft and the value of passenger time associated with avoided delays. In addition, the net value to airlines, the airport, and the public from additional air transportation service will be considered. Project costs will be apportioned among Federal AIP discretionary funds, Federal AIP entitlement funds, and nonfederal funds. Financially sound projects will be selected for LOI approval in a manner that leverages Federal AIP discretionary funds to the maximum extent feasible, consistent with rational investment decisionmaking.

The best candidates for approval will be those projects for a new airport, new runway, or major runway extension at cities or metropolitan areas where the primary airport exceeds or is expected to exceed 20,000 hours of annual air carrier delay. Apron development in support of terminal work is considered airside development. Federal environmental findings must be complete and the project work must be imminent.

Starting in fiscal year (FY) 1995, applications for LOI's are to be submitted to the local FAA office no later than March 1 of the current FY for FAA decisionmaking during that FY. Applications received after March 1 may not be decided upon until the following FY.

This policy does not apply to outstanding LOI's already issued to airport sponsors. The FAA will apply this policy to all other LOI requests.

FAA Review of LOI Requests

The FAA will consider each proposed project in accordance with the following selection criteria. Each of the following three items will be reviewed for an LOI request.

1. Project Effect on Overall National Air Transportation System Capacity

The FAA will analyze the project(s) effect on overall national air transportation system capacity in accordance with agency methodology and modeling capabilities. To do this, FAA will analyze the airport for which the LOI is requested and estimate the current hours of annual flight delay. The FAA will then determine the systemwide impact of the project(s) in terms of reduced annual aircraft and passenger delays at current and future airport activity levels. The FAA may request information from sources at the airport or may visit the site to collect data needed to model the proposed airport improvement. The FAA will also review any capacity analysis conducted by the airport and submitted with the application.

The data requirements will be airport/terminal airspace specific and will be collected by the FAA. The data required will include, but are not limited to: The approved airport layout plan; type of operations; fleet mix; peak hour airfield mix by class; runway occupancy times; taxiway exit percentages; noise, obstruction, terrain, aircraft departure, and aircraft arrival constraints; air traffic arrival and departure streams; minimum vectoring altitudes; aircraft separation by aircraft type; length of and approach speeds on common approach by aircraft type and weather; converging and/or parallel runway dependencies; aircraft arrival and departure dependencies; and the different runway use configurations in the various wind and weather conditions. The data available or to be collected are very similar to those data assembled for FAA Airport Capacity Task Force and Capacity Design Teams studies.

Many of the proposed capacity improvements have already been modeled and calibrated during FAA Airport Capacity Design Team studies and would only require updating. The updating would include any new national air traffic approach procedures, separation standards, and capacity initiatives implemented by the specific airport traffic control tower or airport authority.

2. Project Benefit and Cost

Analysis will involve a detailed review of future benefits and costs for each year of the project's expected life, discounted to present value at an appropriate discount rate. The FAA will measure benefits in terms of annual cost savings attributable to reduced delays, to be measured as the avoided costs of operating delayed aircraft (e.g., fuel and oil, crew, and maintenance savings) and the monetary value of saved passenger time. In addition, the net value to airlines, the airport, and the public from additional air transportation service made possible by the capacity project will be considered. Costs will be estimated for planning, construction, operation, and maintenance of the project, and will be apportioned according to origin of funding—Federal AIP discretionary funds, Federal AIP entitlement funds, and nonfederal funds.

To be eligible for further consideration, the proposed project must have present value benefits that exceed present value costs and must have appropriate sponsor financial commitment (see section 3 below). The FAA will select among eligible projects with the object that Federal AIP discretionary funds will attract funding from other sources to the maximum extent feasible, consistent with rational investment decisionmaking. To accomplish this objective, the FAA will consider various measures of project financial viability (e.g., net present values, benefit-cost ratios, and rates of return) relative to the amount of Federal AIP discretionary funds requested. Eligible projects to be funded entirely with Federal AIP entitlement funds will be approved for LOI's if FAA concludes that entitlement funds will be available.

3. Financial Commitment, Including Project Timing

The FAA will determine the airport sponsor's financial commitment in terms of the airport capital improvement plan and associated financial plan over the lesser of the life of the LOI of 5 years. The plan should include by FY a list of the projects to be implemented, both LOI and non-LOI; and, for each project, the total project cost with a cost breakdown by source of funds (AIP entitlement, AIP discretionary, passenger facility charges (PFC), sponsor, State, and other, including available cash reserve accounts). The amount of funds to be obtained through selling bonds should also be indicated along with the bond rating, if available, and status of issuance.

In making its determination, the FAA will consider the sponsor's commitment of entitlement funds to the proposed project or to higher priority projects, whether PFC's are being applied, the contribution of nonfederal funding sources, diversion of airport revenue off the airport, and whether the sponsor plans to proceed with the project in accordance with all applicable statutory and administrative requirements, with the LOI payments to be used as reimbursements for advance expenditures.

Issued in Washington, D.C. on October 26, 1994.

Cynthia Rich,

Assistant Administrator for Airports.

[FR Doc. 94–26925 Filed 10–26–94; 2:23 pm]

BILLING CODE 4910–13–M

Policy Regarding Revision of Selection Criteria for Discretionary Airport Improvement Program Grant Awards

AGENCY: Federal Aviation Administration; Department of Transportation.

ACTION: Notice of policy.

SUMMARY: The Federal Aviation Administration (FAA) is revising the process used to evaluate applications for Airport Improvement Program (AIP) grants awarded at the discretion at the discretion of the Secretary of Transportation. The new process represents an evolution of past practice. Airport safety and security projects will continue to be accorded the highest priority in AIP investments. They will be followed in order of priority by projects to preserve existing airport infrastructure; bring airports into compliance with standards (including noise mitigation); upgrade service; and increase airport system capacity. The changes described below are intended to assure uniform levels of airport system safety, quality, and performance for passengers, shippers, and aircraft operators throughout the Nation and to improve the effectiveness of AIP investments in meeting critical needs of the national airport system.

Changes in the AIP grant award selection process are based on Executive Order 12893, "Principles for Federal Infrastructure Investments," and guidance provided in Congressional hearings regarding the use of national priority and economic analysis in evaluating Federal investment in airport infrastructure. Revised procedures involve: establishment of national airport investment objectives; consistent ranking of grant applications among FAA regions by type of project; use of

national threshold Priority System scores for award consideration; and application of benefit-cost analysis to any project intended to preserve or enhance capacity for which the total value of requested discretionary capacity grants is expected to equal or exceed $10 million over the life of the project. All procedural changes are consistent with existing statutory requirements for program administration and will be incorporated into FAA Order 5100.38A, "Airport Improvement Program (AIP) Handbook." Applications of the procedures will be described by the FAA each year in its "Annual Report of Accomplishments Under the Airport Improvement Program." The new criteria described in this policy apply to all new projects to be considered for AIP grant awards in FY 1995 and subsequent years. On a case-by-case basis, the FAA may apply the new criteria to ongoing projects approved for AIP grant awards in prior years.

In addition to improvements in the discretionary AIP grant award selection process described herein, the effectiveness of Federal AIP investments will also be reinforced by implementation of a new policy on the issuance of Letters of Intent (LOI's). The FAA recognizes that, as experience is gained by using these procedures, additional improvements may be needed in the criteria used to evaluate applications for discretionary AIP grants.

FOR FURTHER INFORMATION CONTACT: John Rodgers, Director, Office of Aviation Policy, Plans, and Management Analysis, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, (202) 267–3274; Paul Galis, Director, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, (202) 267–8775.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation and the Administrator of the FAA are charged with promoting and maintaining a national aviation system that operates safely and efficiently. The Federal Government pursues this objective in part by investing Federal funds, via AIP grants-in-aid, in modern airport facilities sufficient to handle current and future air traffic and by facilitating local investment in such facilities.

The AIP was first authorized by the Airport and Airway Improvement Act of 1982 (the AAIA). On July 5, 1994, the President signed Public Law 103–272, Codification of Certain U.S. Transportation Laws as Title 49, United States Code (the Codification), which now contains the statutory authority for the AIP (the AIAA was repealed by enactment of the Codification). The Codification provides guidance for the award of grants-in-aid by formula and by discretionary authority granted the Secretary. Section 47115 of the Codification authorizes the Secretary to make AIP discretionary funds available in a manner that the Secretary considers most appropriate for carrying out the purposes of chapter 471, subchapter 1, of the Codification (i.e., Airport Improvement). Section 47115(d) specifies that in selecting projects for discretionary grants to preserve and enhance capacity at airports, "the Secretary shall consider—(1) The effect the project will have on the overall national air transportation system capacity; (2) the project benefit and cost; and (3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity."

The FAA implemented guidance for administering the AIP in its Order 5100.38A, "Airport Improvement Program (AIP) Handbook" (October 24, 1989). Order 5100.38A defines a structured local airport planning process from which projects are identified and entered into the National Plan of Integrated Airport Systems (NPIAS). The NPIAS is the national airport system plan (submitted to Congress on a biennial basis) that identifies potential public-use airport development projects in the United States which are eligible for AIP assistance. The FAA uses a ranking process, titled the Priority System, to award discretionary grants to sponsors of eligible NPIAS projects for which AIP monies are sought. The Priority System assigns numerical values to airport projects based on the type of project and the size and role of the airport. Grants-in-aid are awarded to high priority projects, subject to funding availability (established in annual obligation limitations and program authorizations) and consideration of sponsor financial commitment.

The process defined in Order 5100.38A has been used successfully to evaluate several thousand AIP grant requests each year and annually award as many as 1,500 grants-in-aid. Most of these grants-in-aid are for amounts of less than one million dollars. However, recent developments have led the FAA to revise the existing award process. These developments include: the need to improve the effectiveness of Federal airport infrastructure investments in light of an expected lack of growth in Federal AIP budgets; issuance of Executive Order 12893, "Principles for Federal Infrastructure Investments" (January 26, 1994); and guidance from Congress citing the need for economic airport investment criteria.

After steady growth in the late 1980's and early 1990's, Federal AIP budgets are projected to remain at or near current levels for the next several years. At the same time, the cost and number of major airport capacity projects is expected to increase significantly to accommodate forecast growth in the volume of aircraft operations. Effective Federal investment of discretionary AIP funds will become increasingly important.

Executive Order 12893 is intended to promote more effective infrastructure investments. The Order instructs agencies to conduct systematic economic analysis of these investments. The Order permits consideration of market and non-market benefits and costs in the economic analysis. In addition, it directs that benefits and costs be quantified and monetized to the maximum extent practicable and appropriately discounted over the full life-cycle of each project.

In May 1993, the House Appropriations Subcommittee on Transportation released a report identifying investment criteria that the subcommittee believes should be established for evaluating the merits of infrastructure investments in transportation. The report recommended analysis of project life-cycle costs and benefits. One set of criteria was formulated for each transportation mode, including air transportation. Similarly, the General Accounting Office (GAO) has testified to Congress that the FAA needs to better target AIP funds to the needs of the system.

To improve the effectiveness of AIP investment decisions, the FAA will immediately implement a number of revisions to the project selection criteria identified in Order 5100.38A. These changes are limited to the evaluation of applications for discretionary AIP grants. They are designed to strengthen those features of the current award process that enable the prompt and fair evaluation of large numbers of grant applications, but at the same time permit the FAA to establish investment priorities and conduct economic evaluations of projects that require disproportionately large amounts of discretionary capacity funds. The new criteria described in this policy apply to all new projects to be considered for AIP grant awards in FY 1995 and subsequent years. On a case-by-case basis, the FAA

may apply the new criteria to ongoing projects approved for AIP grant awards in prior years.

Several of the changes that the FAA is implementing are administrative, designed to ensure accountable and consistent applications of the Priority System to all competing airport project proposals. The FAA will establish specific national performance goals at the beginning of each fiscal year. In FY 1995, the goals relate to five factors of the airport system: safety; security; infrastructure preservation; capacity; and environmental compatibility. Performance targets with regard to capacity-enhancing development at congested airports, good pavement conditions at airports, and relocation or insulation of homes and public buildings currently located in 75 DNL noise zones are now under development. Specific time frames for accomplishing these and other goals will be established in conjunction with an evaluation of the current airport system now being conducted. Establishment of specific numerical goals ensures that essential improvements are being implemented in a systematic and measurable manner.

Under new guidance, AIP-eligible projects in all FAA regions must be consistently ranked according to the Priority System and must meet national threshold scores to be considered for AIP discretionary funding. These threshold scores will be determined by comparing the value of total grant applications to the amount of money available for discretionary grants at the national level (based on annual obligation limitations and program authorization requirements). These reforms will assure uniform levels of airport system safety, quality, and performance for passengers, shippers, and aircraft operators throughout the Nation.

The FAA will strengthen its selection criteria by the application of benefit-cost analysis (BCA) to projects intended to preserve or enhance capacity for which sponsors are seeking large amounts of AIP discretionary funds. Included would be projects to add new capacity or reconstruct existing capacity. Grant award will be contingent on demonstrating that a project's benefits will exceed its costs. Initially, FAA staff will conduct the BCA to ensure the consistent application of BCA methodologies among different projects. Until further notice, application of BCA will be limited to those capacity projects for which the total value of requested discretionary capacity grants is expected to equal or exceed $10 million over the life of the project. This limit assures that costs likely to be incurred in preparing a BCA are reasonable with respect to the value of the application(s) being evaluated. The $10 million threshold is also the same value at which the FAA must notify Congress prior to the issuance of LOI awards.

The FAA will amend Order 5100.38A to incorporate the criteria described in this notice of policy. The FAA will also publish summary information about the application of the grant selection process in its "Annual Report of Accomplishments Under the Airport Improvement Program." This report will help to keep interested parties informed of the FAA's progress in implementing the reforms described in this policy statement.

The FAA is committed to continuous improvement of its selection criteria. As the FAA gains experience with applying national priorities and BCA to airport projects, it will consider additional refinements of its selection criteria. These refinements may include: adjustment of the $10 million threshold value for BCA (perhaps establishing different thresholds dependent on type of project or airport size); application of BCA to discretionary projects other than capacity projects; publication of detailed guidance on appropriate BCA methodologies; and assignment of some or all BCA responsibilities to project sponsors (subject to FAA review).

The FAA's effort to improve the effectiveness of its investments in the airport system will be reinforced by a new policy in which the FAA will apply BCA to LOI applications. The FAA will also estimate anticipated aggregate benefits and costs of AIP authorization requests beginning with FY 1996.

The FAA will be responsive to concerns of Congress, State and local governments, airlines, airports, interest groups, and the public as it improves its selection criteria. To facilitate interaction with these groups, the FAA has initiated an outreach process to solicit advice from interested parties and experts in airport investment. At the FAA's request, the Research, Engineering, and Development Advisory Committee established a working group on selection criteria. The working group produced a report which was made available to the FAA in early 1994 and which influenced the development of this policy. Future outreach activities will include a conference under the auspices of the Transportation Research Board (scheduled for October 27, 1994); informal meetings between the FAA and interested parties; and systematic assessment of comments received by the FAA in the course of its administration of the revised selection process.

Policy Regarding Revision of Selection Criteria for Discretionary Airport Improvement Program Grant Awards

Introduction

The process by which the FAA selects airport projects for Federal funding is defined in Order 5100.38A, "Airport Improvement Program (AIP) Handbook." The following developments have contributed to the need to revise this process with respect to grants awarded at the discretion of the Secretary of Transportation: the need to improve the effectiveness of Federal airport infrastructure investments in light of an expected lack of growth in Federal AIP budgets; issuance of Executive Order 12893, "Principles for Federal Infrastructure Investments" (January 26, 1994); and guidance from Congress citing the need for economic investment criteria.

The following selection criteria for discretionary AIP grant awards comply with statutory requirements. They retain the basic processes of FAA Order 5100.38A while implementing new requirements designed to improve performance and effectiveness. The new criteria described in this policy apply to all new projects to be considered for AIP grant awards in FY 1995 and subsequent years. On a case-by-case basis, the FAA may apply the new criteria to ongoing projects approved for AIP grant awards in prior years. As appropriate, the FAA will make additional adjustments to the selection process.

Preliminary Project Selection Screen

1. Projects must conform to several basic eligibility requirements before they will be considered for AIP funding.

1.1 A sponsor of a public use airport is eligible to apply for AIP grants if the airport meets at least one of the criteria for inclusion in the National Plan of Integrated Airport systems (NPIAS). These criteria are specified in Order 5090.3B, "Field Formulation of the National Plan of Integrated Airport Systems (NPIAS)" (September 9, 1985), and are summarized as follows:

1.1.1 The airport enplanes (or is forecast to enplane within 10 years) 2,500 or more revenue passengers per year and receives scheduled passenger service;

1.1.2 The airport handles at least 25,000 itinerant operations, or 35,000 local operations, of general aviation aircraft per year and relieves a congested airport with at least 250,000 annual enplaned passengers;

1.1.3 The airport has (or is forecast to have within 5 years) at least 10 based aircraft, is publicly owned, and is located 30 minutes or more (average

ground travel time) from the nearest alternative airport eligible for AIP funds (special conditions apply to heliports);

1.1.4 The airport serves as a scheduled mail stop of an air carrier transporting mail pursuant to a contract with the U.S. Postal Service;

1.1.5 The airport serves as a permanent base for the Air National Guard or a reserve component of the U.S. Armed Forces; or

1.1.6 The airport meets a significant national interest (established by special written justification or by a benefit-cost analysis).

1.2 Airport sponsors must also satisfy statutory and administrative application and grant condition requirements, including environmental review, public hearings where applicable, airport layout plan and airspace approval, and financial capability. Proposed airport projects should be supported by comprehensive master planning studies. A full exposition of these and other requirements is provided in Chapter 3, "Project Eligibility, Allowable Costs, and Donations," of Order 5100.38A.

1.3 Airports meeting the above criteria are eligible and their sponsors may apply for AIP discretionary grants. AIP funds apportioned to sponsors by formula in accordance with statutory criteria will be granted for eligible work.

Prioritization of Projects Seeking Discretionary Grants

2. Projects meeting the eligibility requirements in section 1 above are ranked for funding priority.

2.1 FAA regional offices rank all grant applications according to the Priority System defined in Chapter 3 or Order 5100.38A. Projects are scored and ranked in the Priority System based on type of project and airport size (lowest overall scores have highest priority). Development project types include (in descending order of priority): Special Programs (safety and security items required by regulation or congressional mandate); reconstruction (infrastructure preservation); standards (including noise mitigation); upgrade; new capacity; and new airport construction. Airport size classes include (in descending order of priority): primary airports and relievers in large and medium hubs; primary airports and relievers outside of large and medium hubs; commercial service airports other than primary airports; and noncommercial airports. Priority System scores by project type and airport role and size are shown in Figure 1.

2.2 On an annual basis, the FAA will establish performance goals for the AIP. In FY 1995, goals will be related to five factors of the airport system: Safety; security; infrastructure preservation; capacity; and environmental compatibility.

2.3 The FAA will ensure consistent application of current and future selection criteria at the regional FAA office level.

2.4 FAA headquarters will use threshold Priority System scores to ensure that only the highest priority projects from a national perspective are funded.

FIGURE 1—PRIORITY SYSTEM MATRIX

	Primary in large or medium hub and its relievers or noncommercial 100 or more based aircraft or 40,000 or more itinerant operations (W)	Primary outside large or medium hub and its relievers or noncommercial 50–100 based aircraft or 20–40,000 itinerant operations (X)	Commercial service other than primary or noncommercial 20–50 based aircraft or 8–20,000 itinerant operations (Y)	Noncommercial less than 20 based aircraft or less than 8,000 itinerant operations (Z)
Planning Categories:				
Initial Study for Existing Airport	1	2	3	4
Study for New Airport	1	2	3	4
Complete/Continue Phased Projects	1	2	3	3
Periodic Update	2	3	4	4
Supplemental Grant for Ongoing Study	2	2	2	2
Development Categories:				
Special Programs (e.g., Safety)	1	1	1	1
Reconstruction	2	2	3	7
Standards (includes Noise Mitigation)	2	3	4	9
Upgrade	3	4	5	10
New Capacity	3	4	5	12
New Airport Capacity	3	5	7	12
New Airport Community	5	6	7	12

Add-on Factors (No Add-on Factors for Special Programs):
+1=Primary landing surface and associated taxiway, approaches.
+2=Aprons, secondary landing surface and associated taxiway, approaches.
+3=Fundamental configuration or for noise compatibility in DNL 75 dB.
+4=CFR maintenance facilities, electronic navaids, AWOS, snow removal equipment/storage buildings.
+5=Primary access roads, noise compatibility (DNL 65–74), terminal buildings.
+6=Snow abrasive/chemical storage buildings.
+7=Other (such as service roads, secondary access roads, noise compatibility projects outside DNL 65 dB, fencing, etc.).

Note: The Priority System conforms to the following hierarchy of general goals:
(1) Support airport safety and security;
(2) Carry out statutory policy and regulatory direction;
(3) Encourage airport/planning agencies to plan for improvements;
(4) Preserve existing infrastructure;
(5) Bring airports into compliance with FAA design criteria; and
(6) Add new capacity.

Benefit-Cost Analysis of Discretionary Capacity Projects

3. To ensure that AIP monies are invested wisely, the FAA will apply benefit-cost analysis (BCA) to eligible high priority projects intended to preserve or enhance capacity for which the total value of requested discretionary capacity grants is expected to equal or exceed $10 million over the life of the project. Included would be projects to add new capacity or reconstruct existing capacity.

3.1 For each such project at or above the $10 million threshold, the FAA will simulate traffic flow at the existing airport to determine the hours of annual flight delay that would be prevented by the capacity project in question. Most reductions in delay attributable to capacity projects can be measured at the project airport level.

3.2 The FAA may utilize assessments of broader system delay reduction when investments at an airport are intended to relieve congestion at neighboring airports or when there is the likelihood that capacity improvements at a project airport will contribute significantly to delay reductions elsewhere in the regional or national system. The FAA will continue to improve its modeling procedures and capabilities to capture more fully the effects of projects on the national air transportation system.

3.3 Capacity benefits expected to result from the proposed project will be quantified using methodology developed for the FAA's Airport Capacity Design Team studies. Annual delay savings will be modeled for three airport activity levels: current operations levels; intermediate-term operations levels (5 to 10 years out); and long-term operations levels (10 to 20 years out). Delay savings will be measured in hours and converted to monetary terms using aircraft operating costs and the value of air passenger time. Benefits for years in which activity levels fall between these three reference levels will be estimated through interpolation. Data on future activity levels will be taken from the FAA Terminal Area Forecast or an FAA-approved forecast in the Airport Master Plan or Draft/Final Environmental Impact Statement (whichever is most recent).

3.4 The FAA will collect data specific to airport/terminal airspace. Required data will include (but will not be limited to): the approved Airport Layout Plan; type of aircraft operations; fleet mix; peak-hour airfield mix by class; runway occupancy times; percentages of aircraft exiting at each taxiway; noise, obstruction, terrain, departure, and arrival constraints; air traffic arrival and departure streams; minimum vectoring altitudes; aircraft separation by aircraft type; length of and approach speeds on common approaches by aircraft type and weather; converging and/or parallel runway arrival and departure dependencies; and the different runway use configurations in the various wind and weather conditions.

3.5 The FAA will consider project capacity and operational efficiency benefits other than delay reduction. Benefits that cannot be quantified will be considered in a qualitative sense. In the future, the FAA may broaden the scope of its capacity benefit measure to include value of producer and consumer surplus (or another measure of benefits). Adoption of new measures of capacity benefits will depend on development of methodologies for accurately quantifying these benefits.

3.6 The FAA will measure total costs of project panning, construction, land acquisition, and operations and maintenance over a 20 year project life. Where appropriate, the FAA will include costs to airlines and the public due to operating delays caused by construction of the project and any costs to the community stemming from environmental impacts resulting from the project.

3.7 Project benefits and costs will be compared using standard discounted cash flow techniques as enunciated by the Office of Management and Budget in Circular No. A–94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs." Circular No. A–94 currently mandates a discount rate of 7 percent in real terms.

3.8 On an annual basis, the FAA will re-evaluate the threshold value for total discretionary capacity grants at or above which a capacity project must subjected to BCA. Greater experience and improved modeling capabilities may allow the threshold to be reduced to capture a greater number of discretionary capacity projects. Different thresholds could be established for airport size categories identified in the Priority System.

3.9 In the future, the FAA will look to expand the application to BCA to non-capacity projects funded through discretionary funds. The FAA will consider the publication of detailed guidance on appropriate BCA methodologies and the assignment of some or all BCA responsibilities to project sponsors (subject to FAA review).

Implementation of Selection Criteria

4. The FAA will publish materials describing the implementation of the revised selection criteria.

4.1 By December 1995, the FAA will issue an amended Order 5100.38A that will incorporate the selection criteria described in this notice of policy.

4.2 The FAA will incorporate information describing its AIP grant award decisions into its "Annual Report of Accomplishments Under the Airport Improvement Program." The report will explain the application of project selection criteria. The first annual report including project selection information will be published by April 1, 1995.

Other AIP Selection Criteria Initiatives

5. The FAA's effort to improve the effectiveness of its investments in the airport system will be reinforced by other agency initiatives.

5.1 Concurrently with the issuance of this notice, the FAA is issuing a new policy on Letters of Intent (LOI) which will become effective in FY 1995. Under this new policy: LOI's will be limited to airside development projects which significantly enhance systemwide airport capacity; BCA will be applied to all LOI's; and the FAA will consider the financial commitment of the project sponsor to the project to be financed by the LOI.

5.2 Consistent with Executive Order 12893, "Principles for Federal Infrastructure Investments," the FAA will estimate anticipated aggregate benefits and costs of AIP authorization requests beginning with FY 1996.

Outreach Program

6. The FAA has established an outreach program to solicit advice from Congress, State and local governments, airports, airlines, interest groups, and the public on how to improve AIP selection criteria.

6.1 The FAA will arrange for the Transportation Research Board to host an industry/academia/government symposium to solicit comments on the FAA's AIP project selection process and the use of BCA. The symposium will take place in Washington, DC, on October 27, 1994. A summary of the symposium proceedings will be available to interested parties upon request to the individuals named under the heading "For Further Information Contact:".

6.2 The FAA will host informal meetings as requested with interested parties on the application of the new selection criteria to airport projects.

6.3 The FAA will conduct a systematic assessment of and be

responsive to comments it receives in the course of its administration of the revised selection process.

Issued in Washington, DC on October 26, 1994.

Cynthia D. Rich,

Assistant Administrator for Airports.

[FR Doc. 94–26926 Filed 10–26–94; 2:23 pm]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on November 14, 1994, at 1 p.m.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, N.W. Suite 801, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Louis C. Cusimano, Assistant Executive Director for General Aviation Operations, Flight Standards Service (AFS–800), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–8452; FAX: (202) 267–5094.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on November 14, 1994, at 1 p.m., at the General Aviation Manufacturers Association, 1400 K Street, N.W. Suite 801, Washington, DC. The agenda for this meeting will include progress reports from the part 103 (Ultralight Vehicles) Working Group, the IFR Fuel Requirements/Destination and Alternate Weather Minimums Working Group, and the VHF Navigation and Communications Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 26, 1994.

Louis C. Cusimano,

Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–26897 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Ketchikan, Alaska

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Cancellation of Notice of Intent to prepare an environmental impact statement. Reference: **Federal Register,** Volume 54, Number 90, Thursday, May 11, 1989.

SUMMARY: The FHWA is issuing this notice to inform the public that an environmental impact statement (EIS) will not be prepared for the proposed upgrading of the Ketchikan transportation system from Ward Cove to Deermount Street. The scope of the proposed improvements has been significantly reduced. An EIS will not be prepared because significant environment impacts should not result from this project.

FOR FURTHER INFORMATION CONTACT: Phillip Smith, Field Operations Engineer, Federal Highway Administration, P.O. Box 021648, Juneau, AK 99802–1648 or; William F. Ballard, Regional Environmental Coordinator, Alaska Department of Transportation and Public Facilities (ADOT&PF), 6860 Glacier Highway, Juneau, AK 99801–7999.

SUPPLEMENTARY INFORMATION: The new project scope involves improvements along Tongass Avenue between the Airport Ferry Terminal and Deermount Street, rehabilitation and reconstruction of viaduct sections along Tongass Avenue including realignment of the S-Curve, and installation of traffic signals and underground utilities. In addition to the improvements on Tongass Avenue, the project would construct a two lane road connecting the existing Third Avenue with Schoenbar Road. This will enable drivers and bicyclists to avoid a portion of Tongass Avenue, which will relieve congestion.

This revised proposal is based on written comments and the results of public meetings held from May, 1989, to March 1993 regarding the proposed project. Members of the public and agency representatives discussed potential alternatives and identified relevant issues at these meetings. Input received indicates that there is not strong support at this time for additional improvements to Tongass Avenue and North Tongass Highway. The revised scope adequately meets the stated need. And Environmental Assessment/Draft Section 4(f) Evaluation will be available for review in late 1994.

Issued on: October 12, 1994.

Robert E. Ruby,

Division Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 94–26718 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

National Award for the Advancement of Motor Vehicle Research and Development

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of award; request for nominations.

SUMMARY: This notice announces the National Award for the Advancement of Motor Vehicle Research and Development, describes its background and basis, and solicits nominations for the award. It also identifies the required content for nominations and describes the evaluation process and criteria to be used in making selections.

DATES: Nominations must be received not later than December 16, 1994.

ADDRESSES: Send complete nominations with supporting information to George L. Parker, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, 400 Seventh St. SW, Washington, DC 20590. For further information, contact Dr. Richard L. Strombotne, Special Assistant for Technology Transfer Policy and Programs, NRD–01, National Highway Traffic Safety Administration, Washington, DC 20590, phone: 202–366–4730, fax: 202–366–5930.

SUPPLEMENTARY INFORMATION: The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 establishes a National Award for the Advancement of Motor Vehicle Research and Development. It sets the basis for the award as follows:

The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel

who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years. (15 USC 3711c.)

This announcement is to solicit nominations for the National Award for the Advancement of Motor Vehicle Research and Development and to provide relevant information. It is the second year of competition for the award; the first competition having closed on December 31, 1993 after having been announced by **Federal Register** notice (58 FR 62180, Wednesday, November 24, 1993). The award consists of a medal and citation from the Secretary of Transportation. It will be presented at an appropriate ceremony.

Nominators

Any person may nominate individuals or organizations he or she believes are worthy of receiving the award by reason of accomplishments.

Eligibility

Eligibility for the National Award for the Advancement of Motor Vehicle Research and Development is limited to domestic motor vehicle manufacturers, domestic suppliers to the motor vehicle industry, their employees, and personnel of Federal laboratories. See the **Definitions** section below for the definitions of the following terms:

Domestic motor vehicle manufacturer,

Domestic supplier, and

Federal laboratory.

Qualifying Work

The award will recognize work that has substantially improved domestic motor vehicle research and development in the areas of motor vehicle safety, motor vehicle energy savings, or environmental impacts of motor vehicles. The work may be a singular one time accomplishment or it may be a series of accomplishments that have had substantial effect over time. Examples of the types of achievements that fall into the three categories are:

1. Safety Improvement

Vehicular technology that reduces the likelihood of crashes (crash avoidance) or the likelihood of serious injury when a crash occurs (crashworthiness) or otherwise improves the changes of post-crash survival/recovery of crash victims. This could include research and development of instrumentation of biomechanics.

2. Energy Savings

Technology that saves energy in the production or operation of motor vehicles by such means as light weight structures, engine and drive train improvements, reductions in tire rolling resistance or aerodynamic drag, and modifications of fuel characteristics.

3. Improvements in Environmental Quality

Motor vehicle technology that reduces emissions, reduces solid waste, reduces hazardous waste, reduces noise (e.g. tire noise), as well as technology that reduces waste byproducts of motor vehicle production, operation, or scrappage.

Required Contents of Nomination

- Names and identification of specific individuals or organizations being nominated.
- Identification of nominator(s) with title(s), address(es) and phone number(s). At least one nominator must sign the nomination.
- Description of accomplishments, including the nature of the specific research and development accomplishment and reasons why it constitutes substantial improvement. Identify involvement of organization or individual(s) nominated.
- References for improvements (patents, awards, papers, other recognition).
- Establish eligibility of nominees. Individuals must be past or current employees of organization at which research and development was accomplished.
- Establish that improved technology is for motor vehicles offered for sale in the United States.

Limitation on Length of Nomination

The nomination is limited to 10 numbered pages of 8.5 inch × 11.0 inch paper with one inch margins and font size not less than 12 point.

Send an original and three copies of the complete nomination to George L. Parker, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, 400 Seventh St. SW, Washington, DC 20590. Nomination will be returned to the nominator if it includes a written request.

Evaluation Process and Criteria

NHTSA and other Federal agency staff will make an initial screening of all nominations received on or before December 16, 1994 to ensure that they contain the required information and meet the statutory requirements for eligibility and field of work. Subsequently, a special panel will evaluate the nominations. NHTSA intends that the evaluation panel will include experts in the fields of energy savings and environmental impact in addition to motor vehicle safety. The panel will make its evaluations according to the following criteria:

1. Quality of cited work.
2. Contribution of cited work to improved safety, energy savings or environmental quality.
3. Involvement of nominees with cited work.

The Secretary of Transportation will then select the awardee from among the nominees receiving high evaluations from the evaluation panel. The Secretary may also decide not to make an award. His decision is final.

Definitions

For the purposes of determining eligibility for the National Award for the Advancement of Motor Vehicle Research and Development, the following definitions will apply:

Domestic motor vehicle manufacturer—a company engaged in the production and sale of motor vehicles in the United States and that has majority ownership or control by individuals who are citizens of the United States. [Definition based on that of "United States-owned company" in Section 15 U.S.C. 278n(j)(2) as added by Public Law 102–245.]

Domestic supplier—a company that supplies research and development, design services, materials, parts and/or items of equipment or machinery to a motor vehicle manufacturer or subcontractor to a motor vehicle manufacturer or whose products are used in new motor vehicles and that has majority ownership or control by individuals who are citizens of the United States.

Personnel of Federal laboratory—Individuals employed by the Federal Government at a facility engaging in research and development activities or employed by a contractor at such a facility that is owned by the Federal Government and operated by that contractor.

Ricardo Martinez,

Administrator.

[FR Doc. 94–26820 Filed 10–28–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

[Treasury Order Number 101–19]

Designation of Assistant Secretary (Management)/Chief Financial Officer to Make Determinations of Law Enforcement Officer Coverage/Credit Under the Federal Employees' Retirement System (FERS) and the Civil Service Retirement System (CSRS); Delegation

Dated: October 24, 1994.

By virtue of the authority vested in the Secretary of the Treasury, including the authority in 31 U.S.C. 321(b), 5 U.S.C. 8401(17)(B), and Subpart H of Part 842 and Subpart I of Part 831 of Title 5 of the Code of Federal Regulations (CFR), it is hereby ordered that law enforcement officer coverage/credit within the Department of the Treasury will be determined according to the following procedures.

1. The Federal Employees' Retirement System, and the Civil Service Retirement System, Chapters 84 and 83 of Title 5, United States Code, contain special provisions for law enforcement officers. These special provisions are implemented by Office of Personnel Management regulations at Subpart H of Part 842 and Subpart I of Part 831 of the Code of Federal Regulations.

2. The Deputy Assistant Secretary (Administration), heads of bureaus, and the Inspector General shall submit documentation concerning positions proposed for law enforcement officer coverage/credit under FERS and CSRS, to the Director, Human Resources Directorate. An individual employee seeking a determination shall follow the same procedure.

3. The Director, Human Resources Directorate shall be responsible for reviewing the documentation to ensure that it meets applicable requirements for determining coverage/credit under FERS or CSRS.

4. Final action on allowing or denying FERS and CSRS law enforcement officer coverage/credit shall be by the Assistant Secretary (Management)/Chief Financial Officer.

5. *Cancellation.* Treasury Order 101–19, "Designation of Rigorous and Secondary Positions for Purposes of the Federal Employees' Retirement System," dated January 17, 1992, is superseded. No designation made under that Order, or the predecessor Order dated December 22, 1987, shall be deemed invalid due to the withdrawal of that Order.

Lloyd Bentsen,

Secretary of the Treasury.

[FR Doc. 94–26823 Filed 10–28–94; 8:45 am]

BILLING CODE 4810–25–P

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 two objects: "Flowers and Butterflies" and "Flowers," both screens, in the exhibit, "Korean Art of the Chosun Dynasty" 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 at The Los Angeles County Museum of Art from on or about November 1, 1994, to on or about October 14, 1995, is in the national interest. Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: October 25, 1994.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 94–26830 Filed 10–28–94; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 209
Monday, October 31, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, November 2, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Proposals regarding a Federal Reserve Bank's building program.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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 26, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26970 Filed 10–27–94; 8:45 am]

BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 31, November 7, 14, and 21, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 31

Monday, October 31

10:00 a.m.
Briefing on Status of DOE's HLW Program (Public Meeting)
(Contact: Malcolm Knapp, 301–415–7437)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 7—Tentative

Thursday, November 10

2:30 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–415–7360)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 14—Tentative

There are no meetings scheduled for the Week of November 14.

Week of November 21—Tentative

There are no meetings scheduled for the Week of November 21.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: Dr. Andrew Bates (301) 504–1963.

Dated: October 27, 1994.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 94–26999 Filed 10–27–94; 11:10 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Notice of Change in Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 52861; October 19, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., November 1, 3, 14, 15, 16, 17, 18, 21, 22, 1994.

CHANGES IN THE MEETING: 10:00 a.m., October 31, November 2, 3, 4, 14, 15, 16, 17, 18, 21, 22, 1994.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 94–26998 Filed 10–27–94; 11:09 am]

BILLING CODE 7710–FW–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, November 8, 1994, in Washington, D.C. The meeting is open to the public and will be held at the U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, November 7, 1994, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

November 8—8:30 (Open)

1. Minutes of the Previous Meeting, October 3–4, 1994.
2. Remarks of the Postmaster General and CEO. (Marvin Runyon).
3. Status Report on Washington, DC, and Baltimore, MD, Mail Service. (Henry A. Pankey, Vice President, Mid-Atlantic Area Operations.)
4. Quarterly Report on Service Performance. (Ann McK. Robinson, Consumer Advocate, Vice President.)
5. Tentative Agenda for the December 5–6, 1994, meeting in Tampa, Florida.

David F. Harris,

Secretary.

[FR Doc. 94–27035 Filed 10–27–94; 1:44 pm]

BILLING CODE 7710–12–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 to 5:00 p.m., November 9, 1994
9:00 a.m. to noon, November 10, 1994

PLACE: Omni Netherland Plaza, 35 West Fifth Street, Cincinnati, Ohio 45202–2899.

MATTERS TO BE CONSIDERED: Grant proposals, budget issues, and internal personnel matters.

PORTIONS OPEN TO THE PUBLIC: Board consideration of grant proposals and budget issues.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters; Board committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 94–27050 Filed 10–27–94; 1:45 pm]

BILLING CODE 6820–SC–M

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 53515 (October 24, 1994).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (EDT), Wednesday, October 26, 1994.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

CHANGES IN THE MEETING: A majority of the Members of the TVA Board of Directors has approved the addition of the following item to the previously announced agenda:

F7—Approval of the Center for Rural Studies Trust.

CONTACT PERSON FOR MORE INFORMATION: Ron Loving, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call 615–632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–898–2999.

Edward S. Christenbury,

General Counsel and Secretary of the Corporation.

[FR Doc. 94–26976 Filed 10–27–94; 11:08 am]

BILLING CODE 8120–08–M

federal register

Monday
October 31, 1994

Part II

Department of the Interior

Bureau of Indian Affairs

Indian Tribes, Acknowledgement of Existence Determinations, etc.: Jena Band of Choctaw Indians; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Jena Band of Choctaw Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary proposes to acknowledge that the Jena Band of Choctaw Indians, c/o Jerry D. Jackson, P.O. Box 14, Jena, Louisiana, 71342, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the tribe meets the seven mandatory criteria set forth in 25 CFR 83.7. Therefore, the Jena Band of Choctaw Indians meets the requirements necessary for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the new regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the Assistant Secretary must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2611–MIB.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, (202) 208–3592.

SUPPLEMENTARY INFORMATION: The Jena Band of Choctaw Indians directly descends from a community of Choctaws who resided in western Catahoula Parish, now LaSalle Parish, in the vicinity of Jena, Louisiana, since first identified by the census of 1880. The linguist Albert Gatschet reported finding three Choctaw families on Trout Creek, Catahoula Parish in 1886. The Trout Creek settlement lived in log huts on land owned by Thomas Whatley. They were known locally as the Eden Indians, the Choctaw Indians on Trout Creek, and the Whatley Indians in reference to their residences or to the landowners with whom they were associated. After World War II, most of the tribe moved into the nearby town of Jena, Louisiana. They formally incorporated in 1974, as the Jena Band of Choctaw Indians, but usually refer to themselves as the Jena Choctaws.

Aboriginal Choctaw territory lay east of the Mississippi River, but the Choctaws also hunted west of the river. Although wandering Choctaws had been observed in Louisiana before 1800, there is no evidence to connect any of the Jena Choctaws with the earliest Choctaw inhabitants of Louisiana. There is some evidence that they had attempted to go north to the Choctaw Nation, but returned to Louisiana from there. Gatschet's interviews, the Federal censuses, and the testimony of ancestors before the 1902 U.S. Commission to the Five Civilized Tribes, known as the Dawes Commission, all substantiate that the Jena Choctaws came from Scott and Newton counties in Mississippi and probably arrived in the vicinity of Jena, Louisiana during the 1870's.

Several of the Choctaws from the Jena vicinity removed to Oklahoma between 1903 and 1920, but the remnants of four families remained, thus maintaining the community. Between 1914 and 1917, a large family of Choctaws, who lived less than 20 miles east of Jena at Manifest or Aimwell, Louisiana, moved to Trout Creek and began marrying into the remaining families. Their arrival saved the community at Trout Creek near Jena, which had suffered significant losses due to the removals.

The ancestors of the Jena Choctaws have been identified both as Choctaws and as an Indian entity by scholars, local officials, and state and Federal sources on a substantially continuous basis since 1900. No one has denied the Indian identity of the Jena Choctaws. The 1903 Dawes Commission identified the ancestors of the petitioner as full-blood Mississippi Choctaws who were eligible to receive land allotments in the Choctaw Nation, or what is now Oklahoma. Local residents, local store records, and occasional state newspaper articles all referred to them as Indians. Federal and state school officials from 1929 to 1940 all considered the Jena Choctaws to be Indians, and some referred to them as a small tribe. Indian children were not allowed to attend the white public schools of the parish, while the Indians refused to attend the black schools. Local authorities and private individuals made efforts to create a school specifically for the Indian children. During the 1930's, the Penick Indian School operated with some funding from the Federal Office of Indian Affairs.

The Office of Indian Affairs proposed moving those Choctaws who were willing to move to Federal trust lands in Mississippi so that their children could be educated with other Indian children at Pearl River, Mississippi. Although the proposal was not carried out, it is clear that the Federal officials considered the Jena Choctaws to be eligible members of the recognized Mississippi Choctaw tribe.

When the Office of Indian Affairs provided Federal aid for tuition for the Choctaw students at the Penick Indian School, it did not deal directly with the Indians but provided funds to state and local governments. In short, although briefly providing some Federal services to individuals, the Federal Government had not recognized the Jena Choctaws as a separate tribal entity. Because the Choctaws from rural Jena, Louisiana, were not removed to Oklahoma in 1903 or to Mississippi in 1938, they retained their identity as a separate and distinct Indian group.

The Jena Band of Choctaw Indians maintained their community through a high degree of in-group marriages. Before 1950, 85 percent of the marriages of members were to other members, and 50 percent of the existing marriages in 1959 were to other members of the tribe. Perhaps supported by the in-group marriages and close family ties, the community continued to speak the Choctaw language almost exclusively until the late 1930's and in many households until the late 1950's.

Although the Choctaw did not live in an exclusively Indian neighborhood, they did live in close proximity of one another in the Trout Creek or Eden neighborhood from before 1880 until after World War II. They shopped in the local Whatley stores where they paid for goods by skinning and tanning hides as well as by day labor and household help. They were identified by the shopkeepers by their first name and the title "Indian," rather than by a first and last name. They traveled into town as a group on a Saturday night, where they were often met with harassment from the general population and in particular from the town marshall.

Maintenance of the White Rock Indian cemetery has been a central activity of Jena Choctaw throughout the history of the group. Not only have they continually buried their dead in the cemetery, but the frequent clean-up days also became a time for social contact between the various families. They brought food for a cook out, visited, discussed community concerns, and even camped over night at the cemetery. Until the late 1930's, the tribe exercised traditional burial practices,

which involved a mourning period, cutting hair, and participating in a "cry" or funeral some six months after the burial. The cemetery, which was located on land owned by the Whatley family, was deeded to the Jena Band of Choctaw Indians in 1982.

Aside from informal social interaction and continued maintenance of the White Rock Indian Cemetery, members of the tribe shared economic resources and provided each other with services in the 1950's and 1960's. After incorporation, the tribal council assumed a major role in providing for the members' needs. It has provided tutoring, school supplies, clothing, and free haircuts for school children. To teach and maintain a sense of Indian identity, the tribe conducts Choctaw language and history classes at the tribal center after school hours and during the summer.

A traditional leader or chief led the group in burial practices, conducted marriages, and conducted the affairs of the Indian community until the late 1930's. After World War II, when most of the membership started attending Christian churches, the role of the traditional leader became less active than in previous generations; however, he continued to organize community support of members in need and to arrange for maintenance of the Indian cemetery. During the 1950's and 1960's informal leaders also helped to meet the needs of the membership by furnishing goods and services such as mid-wifing. After the death of the last traditional leader in 1968, there was a transition period between the old-style of leadership and the formally organized entity. Since 1974, the Jena Choctaws have elected their leaders and members have participated in the governance of the tribe.

The first formal governing document for the tribe was the 1974 Articles of Incorporation. It was followed in 1990, by a constitution which reflected how they governed themselves and defined their membership. Membership consists of Choctaws possessing ¼ or more blood quantum who descend from the Choctaws who settled in LaSalle Parish and who were listed as Indian on the 1880, 1900, and 1910 censuses. The constitution also allows that at specified future dates, descendants with less than ¼ Choctaw blood quantum will be allowed to enroll as members. The members are not members of any other recognized tribe, nor has Congress terminated or denied a government-to-government relationship with the tribe.

There are 153 names on the 1993 membership roll. One hundred percent of the membership descends from at least one ancestor who was identified as a Choctaw Indian on the 1900 and 1910 Federal censuses or as Indian on the 1870, 1880, or 1920 Federal censuses. Over 88 percent of the membership also descends from someone who was identified as a full-blood Mississippi Choctaw on the 1903 preliminary roll of the Dawes Commission.

Under the new regulations, the high degree (over 50 percent) of in-group marriages through 1959 is considered to be a high level of evidence for the existence of an Indian community to that date. The new regulations also provide that the petitioner is assumed to have exhibited tribal political authority over its members prior to 1959 because of the high level of evidence that it maintained a community during those years. Interaction between Jena Choctaws has been maintained since 1959 with informal "visiting" and since 1974 with activities sponsored by the tribal council.

Based on this preliminary factual determination, we conclude that the Jena Band of Choctaw Indians meet all seven mandatory criteria and should be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the new regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and other interested parties, and is available to other parties upon written request.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 180-day response period described above, the Assistant Secretary—Indian Affairs will publish the final determination of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(l).

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–26835 Filed 10–28–94; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
October 31, 1994

Part III

Environmental Protection Agency

Protection of Stratospheric Ozone; Petitions for Exemption; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5097–5]

Protection of Stratospheric Ozone; Petitions for Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to notice of decision.

SUMMARY: On September 13, 1994, the U.S. Environmental Protection Agency (EPA) published a **Federal Register** notice (59 FR 47048) of decision granting petitions for exemption for two specific applications of products manufactured with class I substances. These waivers were granted to the Upjohn Company (Upjohn) and E.I. DuPont de Nemours & Company (Dupont). Within the notice of September 13, 1994, two technical errors were made, one each in the Upjohn and Dupont discussions. The purpose of today's action is to correct these technical errors. The corrections are discussed in **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Copies of information relevant to these petitions are available for inspection in public docket A–91–60 at the Air Docket [LE–131 of EPA, Room M–1500, 401 M Street SW., Washington, DC 20460 between the hours of 8 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mavis Sanders, Stratospheric Protection Division (6205–J), Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; (202) 233–9737.

SUPPLEMENTARY INFORMATION:

Background

On February 11, 1993, the U.S. Environmental Protection Agency (EPA) published the final labeling regulations implementing section 611 (58 FR 8136) of the Clean Air Act (CAA), as amended by the Clean Air Act Amendments (CAAA) of 1990. The regulations include a section that permits a manufacturer to petition EPA to temporarily exempt a product manufactured with a class I substance from the labeling requirements.

This Action

When transcribing information from the Upjohn petition for exemption, to the September 13, 1994 notice, EPA inadvertently listed the wrong chemical as an actual alternative for the use of CFC–12 as a stabilizer for Upjohn's sterilization process. The chemical Spectinomycin Hydrochloride was stated as the replacement for the use of CFC–12 in this process. The notice should have stated on page 47049 in the second column that Upjohn submitted a petition to the Food and Drug Administration (FDA) to approve the modification of its use of a CFC–12/Ethylene Oxide (ETO) mixture in the sterilization process to 100% Ethylene Oxide. Therefore, the notice of September 13, 1994, is corrected to state that the alternative chemical submitted by Upjohn to the Food and Drug Administration (FDA) for approval is ethylene oxide (ETO).

There was a typographical error made in the E.I. Nemours Dupont Company (Dupont) discussion of the notice. Dupont's petition requested a waiver through December 31, 1996. EPA's intention was to grant a waiver from labeling requirements, for the fine synthetic fiber manufactured by Dupont, through December 31, 1996. The September 13, 1994, **Federal Register** notice stated on page 47051 in the first column that the waiver should be granted through January 1, 1996. That notice should have stated that the waiver be granted through December 31, 1996.

Therefore the notice of September 13, 1994 is corrected to grant the waiver for Dupont's fine synthetic fiber through December 1996.

Dated: October 20, 1994.

Richard D. Wilson,

Acting Assistant Administrator.

[FR Doc. 94–26666 Filed 10–28–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Monday
October 31, 1994

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 141

Business Practices on the Navajo, Hopi, and Zuni Reservations; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 141

RIN 1076–AC87

Business Practices on the Navajo, Hopi, and Zuni Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending 25 CFR 141.10 and 141.33 to change references to the account "Indian Monies, Proceeds of Labor" to read "Special Deposits," as provided in 25 CFR Part 114—SPECIAL DEPOSITS.

EFFECTIVE DATE: November 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Parris, Bureau of Indian Affairs, Office of Trust Funds Management, 505 Marquette NW., Suite 700, Albuquerque, NM 87102, Telephone Number 505–766–3230.

SUPPLEMENTARY INFORMATION: This rulemaking action is to amend Part 141 of Subchapter G of Chapter I of Title 25 of the Code of Federal Regulations, which contains general regulations pertaining to reservation businesses and prescribes rules for the licensing of non-member businesses, pawnbrokers and traders who engage in retail business on the Navajo, Hopi, and Zuni Reservations, as required by 25 U.S.C. 261, 262, 263, and 264.

Pursuant to the amendments contained in Pub. L. 97–257, Title I, § 100, (Sept. 10, 1982, 96 Stat. 839), which provide that "No funds shall be deposited in such 'Indian monies, proceeds of labor' (IMPL) accounts after September 30, 1982," all deposits to IMPL accounts were discontinued. The IMPL accounts will be removed from the BIA accounting system and are no longer available for use. The references to, "Indian Monies, Proceeds of Labor" accounts contained in § 141.10(d) and § 141.33(d) are therefore no longer valid, and are being changed to refer to "Special Deposits" accounts, in accordance with the requirements of 25 CFR 114.

A proposed regulation for 25 CFR 141 was published for public comment in the **Federal Register** on February 25, 1994 (59 FR 9302). After a thirty- (30-) day comment period, no comments were received.

The primary author of this proposed rule is Loren J. Farmer, Policy, Analysis and Evaluation Staff, Bureau of Indian Affairs, Office of Trust Funds Management, 505 Marquette NW., Suite 700, Albuquerque, NM 87102.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The Department has determined that this rule is not a significant regulatory action under Executive Order 12866 and therefore will not be reviewed by the Office of Management and Budget.

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The Department has determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

There are no information collection requirements requiring approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 25 CFR Part 141

Business and industry, Credit, Indians—business and finance, Penalties, Reporting and recordkeeping requirements.

For reasons set out in the preamble, Part 141 of Title 25, Chapter I of the Code of Federal Regulations is amended as set forth below.

PART 141—BUSINESS PRACTICES ON THE NAVAJO, HOPI, AND ZUNI RESERVATIONS

1. The authority citation for 25 CFR Part 141 is revised to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9.

2. Sections 141.10(d) and 141.33(d) are revised to read as follows:

§ 141.10 License fees for reservation businesses.

* * * * *

(d) All fees are payable to the Area Director and shall be deposited to the credit of the account "Special Deposits."

§ 141.33 Fees for pawnbroker license.

* * * * *

(d) All fees are payable to the Area Director and shall be deposited to the credit of the account "Special Deposits."

Dated: October 12, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–26836 Filed 10–28–94; 8:45 am]

BILLING CODE 4310–02–P

federal register

Monday
October 31, 1994

Part V

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 113
Indian Monies, Proceeds of Labor; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 113

RIN 1076–AC86

Indian Monies, Proceeds of Labor (IMPL)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is deleting the regulations contained in the Code of Federal Regulations pursuant to the public law which suspended all deposits to Indian Monies, Proceeds of Labor (IMPL) accounts after September 30, 1982. The law eliminated the use of IMPL accounts, and since these accounts are no longer in use, they will be removed from the BIA accounting system.

EFFECTIVE DATE: November 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Parris, Bureau of Indian Affairs, Office of Trust Funds Management, 505 Marquette N.W., Suite 700, Albuquerque, NM 87102, Telephone Number 505–766–3230.

SUPPLEMENTARY INFORMATION: This rulemaking action deletes Part 113 of Subchapter G of Chapter I of Title 25 of the Code of Federal Regulations, which contains regulations governing Indian Monies, Proceeds of Labor (IMPL) established under the Act of March 3, 1883, as amended (25 U.S.C. 155).

Pursuant to the amendments contained in Public Law 97–257, Title I, Section 100, 25 U.S.C. 155 B, which provided that, "No funds shall be deposited in such 'Indian monies, proceeds of labor' (IMPL) accounts after September 30, 1982," all deposits to IMPL accounts were discontinued. The unobligated IMPL balances at the close of business on September 30, 1982, including the income resulting from investment of funds from such accounts prior to such date, were transferred to and held in escrow accounts. After consultation with appropriate tribes and individual Indians up to September 30, 1985, to determine the extent to which the funds held in escrow accounts represented income from the investment of "special deposits" relating to individual Indians or a specific tribe, funds were transferred to appropriate trust accounts for individual Indians and tribes during the period of October 1, 1985, through September 30, 1987. The unobligated balances of the IMPL escrow accounts as of the close of business on September 30, 1987, are to be withdrawn and deposited into miscellaneous receipts of the U.S. Treasury. The IMPL accounts are to be removed from the Bureau of Indian Affairs trust accounting system and are no longer available for use.

A proposed regulation for 25 CFR 113 was published for public comment in the **Federal Register** on April 7, 1994 (59 FR 16760). After a thirty (30) day comment period, no comments were received.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The Department of the Interior has determined that this document is not a significant rule under Executive Order 12866 and therefore will not require the approval of the Office of Management and Budget.

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The Department has determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

There are no information collection requirements requiring approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this proposed rule is Loren J. Farmer, Policy, Analysis and Evaluation Staff, Bureau of Indian Affairs, Office of Trust Funds Management, 505 Marquette N.W., Suite 700, Albuquerque, NM 87102.

List of Subjects in 25 CFR Part 113

Accounting, Indians—business and finance.

For reasons set out in the preamble and under the authority of Public Law 97–257, Title I, Section 100 (September 30, 1982, 96 Stat. 839), Part 113 of Title 25, Chapter I of the Code of Federal Regulations is removed.

Dated: October 12, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–26837 Filed 10–28–94; 8:45 am]

BILLING CODE 4310–02–P

federal register

Monday
October 31, 1994

Part VI

The President

Proclamation 6750—Veterans Day

Proclamation 6751—Thanksgiving Day

Executive Order 12935—Amending Executive Order No. 11157 as it Relates to the Definition of "Field Duty"

Federal Register
Vol. 59, No. 209
Monday, October 31, 1994

Presidential Documents

Title 3—

The President

Proclamation 6750 of October 27, 1994

Veterans Day, 1994

By the President of the United States of America

A Proclamation

Each year, we set aside November 11 to honor the men and women who have served in our Nation's Armed Forces. Their stories are not only of past glory and current sacrifice; their lasting contributions are to our future as well. Their deeds and dedication assure us and the generations to come that America's great promise of freedom and happiness will endure and flourish.

Fifty years ago on this day, American forces of World War II were pushing the enemy back across the European continent, liberating hundreds of thousands along the way. These heroic Americans fought to win the peace, not just for themselves and for their Nation, but for oppressed millions in many lands.

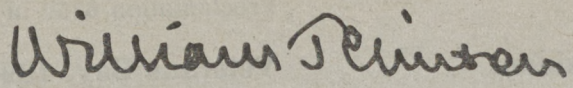
The world has changed tremendously since then. Today, the international role of the United States has evolved from peacemaker to peacekeeper. And still we call upon our Armed Forces to serve our Nation and to defend the cause of freedom everywhere. Our men and women in uniform understand that the ideals of democracy and self-determination are larger than any single nation. The blood of Americans spilled on battlefields from Normandy to Korea to Vietnam and the vigilant defense of freedom throughout the Cold War have taught us a lasting lesson: America can only rest secure when every individual knows liberty and all nations live at peace.

It is an extraordinary person who is willing to step in harm's way to protect others. Our Nation has always been blessed with an abundance of such men and women. We owe our veterans an inestimable debt of gratitude. On this day, we recognize how much they have done, and are doing, to make a better, safer tomorrow for all of us.

In order that we may pay due tribute to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103 (a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Friday, November 11, 1994, as "Veterans Day." I urge all Americans to honor the resolution and commitment of our veterans through appropriate public ceremonies and private prayers. I call upon Federal, State, and local government officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

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



[FR Doc. 94–27133
Filed 10–28–94; 11:19 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6751 of October 27, 1994

Thanksgiving Day, 1994

By the President of the United States of America

A Proclamation

As the end of another year draws closer, we are again filled with thankfulness for the blessings of a fruitful land. For more than 200 years, Americans have welcomed autumn's harvest with gratitude and goodwill. On Thanksgiving Day, we set aside our daily routines to acknowledge the bounty and mercy of Divine Providence. With full hearts, we bask in the warmth of family and community gatherings, and we reflect on the challenge, responsibility, and privilege that are ours as citizens of these United States.

It is our great fortune to live in a country of abundance and promise—a land of freedom for all. Still only a few generations removed from our Nation's founders, we continue to blaze a trail toward stability and justice. Aspiring to lift ourselves closer to God's grace, we remain determined to ease the pain of the many people who know only poverty and despair. Clearly, ours is an unfinished journey.

Our destination must be to create the means for every one of us to prosper, to enjoy sound education, meaningful work experience, protective health care, and personal security. It is our responsibility to prompt the national conscience so that by fostering virtue, wisdom, and moral values, we rejoice in our growth as a people.

Our challenge is to give assistance and encouragement that are equitable and just and that alleviate human suffering. Our responsibility is to nurture the processes of peace and equal human rights everywhere with compassion and concern. And like other pioneers before us, it is our privilege to be able to aim toward lofty goals.

Across this land as people gather together with loved ones to savor the bounty of the Thanksgiving Holiday, I invite each family, each religious congregation, each community and city, to celebrate your experience of the American heritage. Reach out in friendship and cooperation to the people of your hometown. Take responsibility for bringing harmony and hope, peace and prosperity to all of the inhabitants of our world. Share the privileges of freedom and the challenge of working for a better world.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Thursday, November 24, 1994, as a National Day of Thanksgiving. I urge the citizens of this great Nation to continue this beloved tradition and to strengthen it by gathering in their homes and places of worship to express their heartfelt gratitude for the many blessings of our lives.

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

William J. Clinton

[FR Doc. 94–27132
Filed 10–28–94; 11:20 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 12935 of October 28, 1994

Amending Executive Order No. 11157 as it Relates to the Definition of "Field Duty"

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 402(e)(1) of title 37, United States Code, it is hereby ordered as follows:

Section 1. *Amendments to Executive Order No. 11157.*

(a) Section 303(e) of Executive Order No. 11157 of June 22, 1964, as amended, is further amended by striking out "— (1) the member is under orders with troops operating against an enemy, actual or potential; or (2)".

(b) Section 401(b) of Executive Order No. 11157 of June 22, 1964, as amended, is further amended by striking out "service by a member under orders with troops operating against an enemy, actual or potential, or" in the first sentence.

Sec. 2. *Effective Date.* The amendments to Executive Order No. 11157 made in this order shall take effect at 12:01 a.m., eastern daylight time on October 28, 1994.

William J. Clinton

THE WHITE HOUSE,
October 28, 1994.

[FR Doc. 94–27135
Filed 10–28–94; 11:30 am]
Billing code 3195–01–P

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

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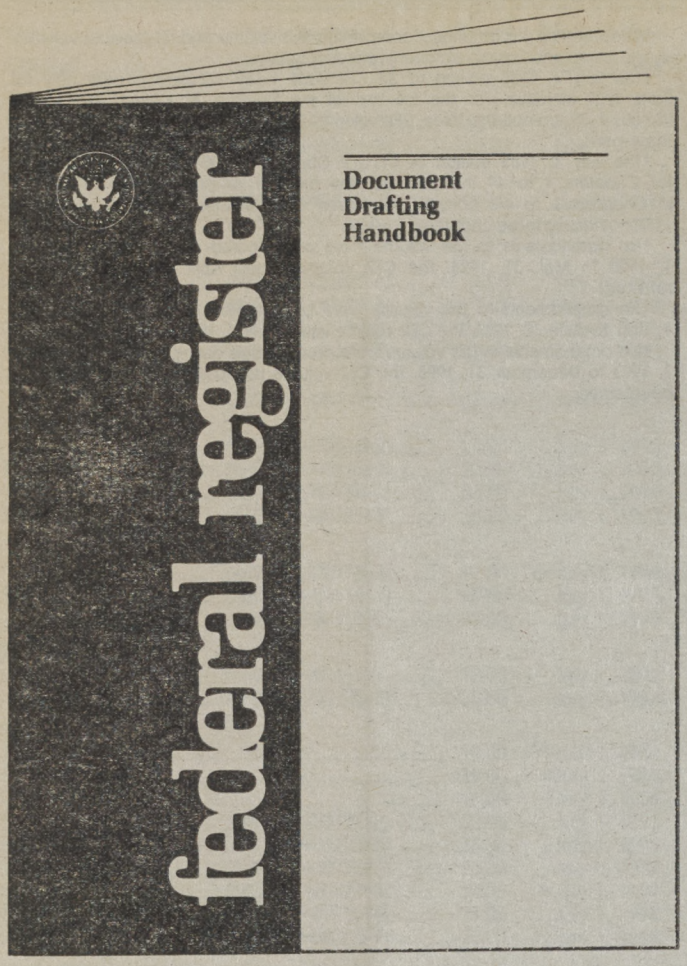

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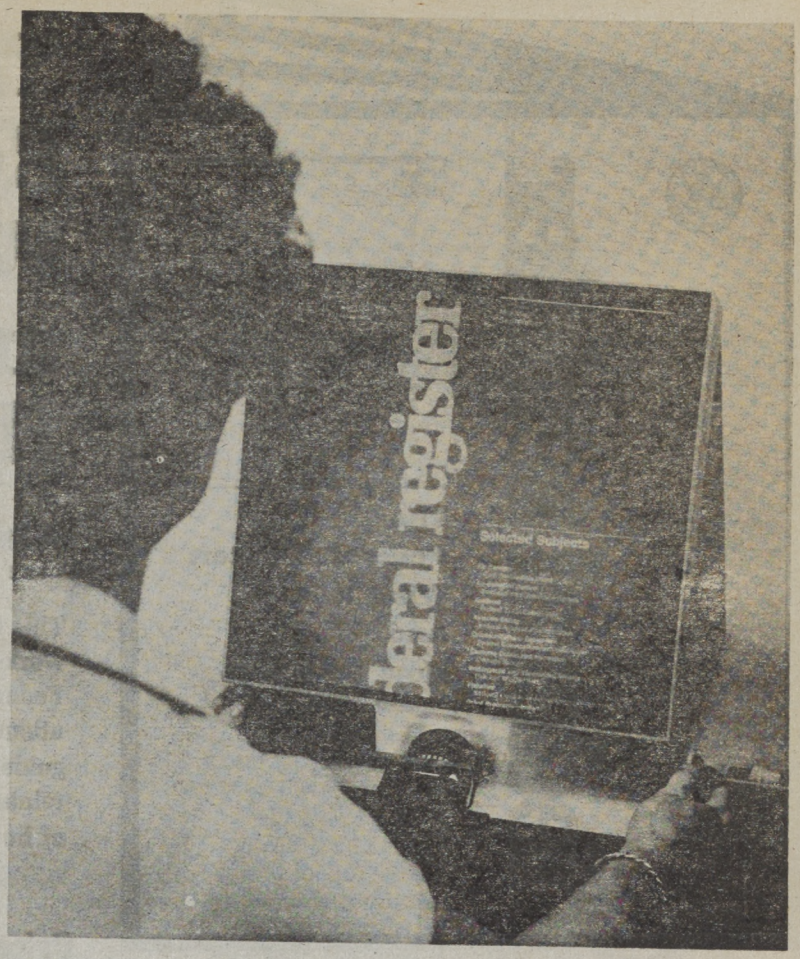

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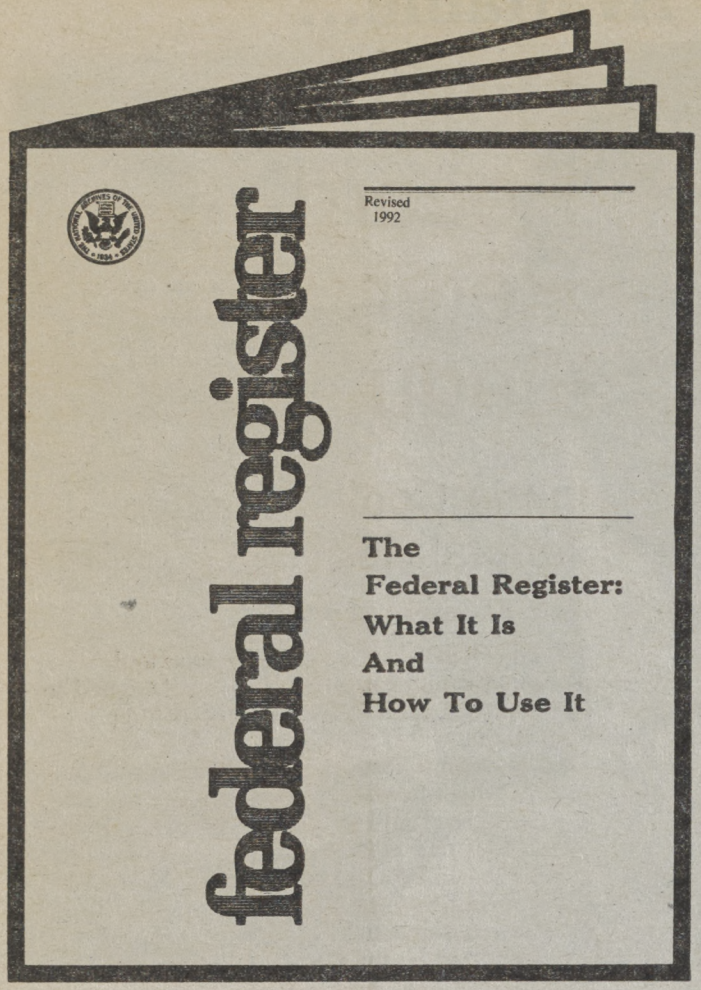

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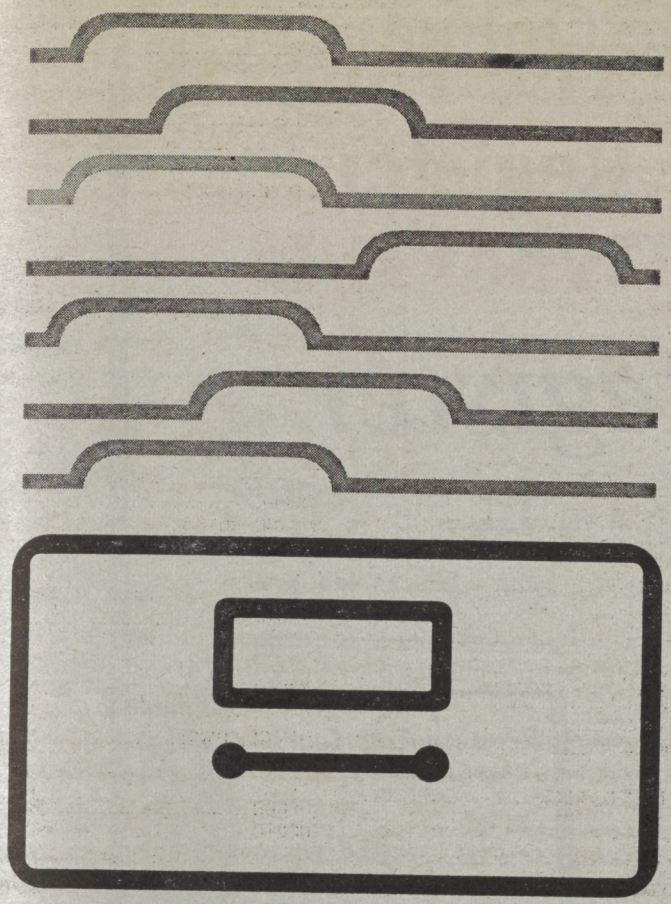

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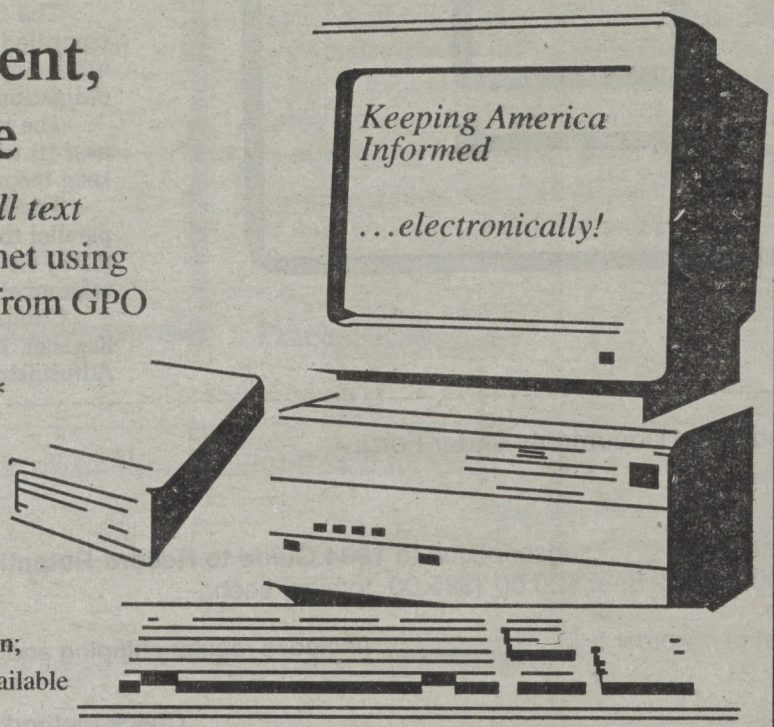

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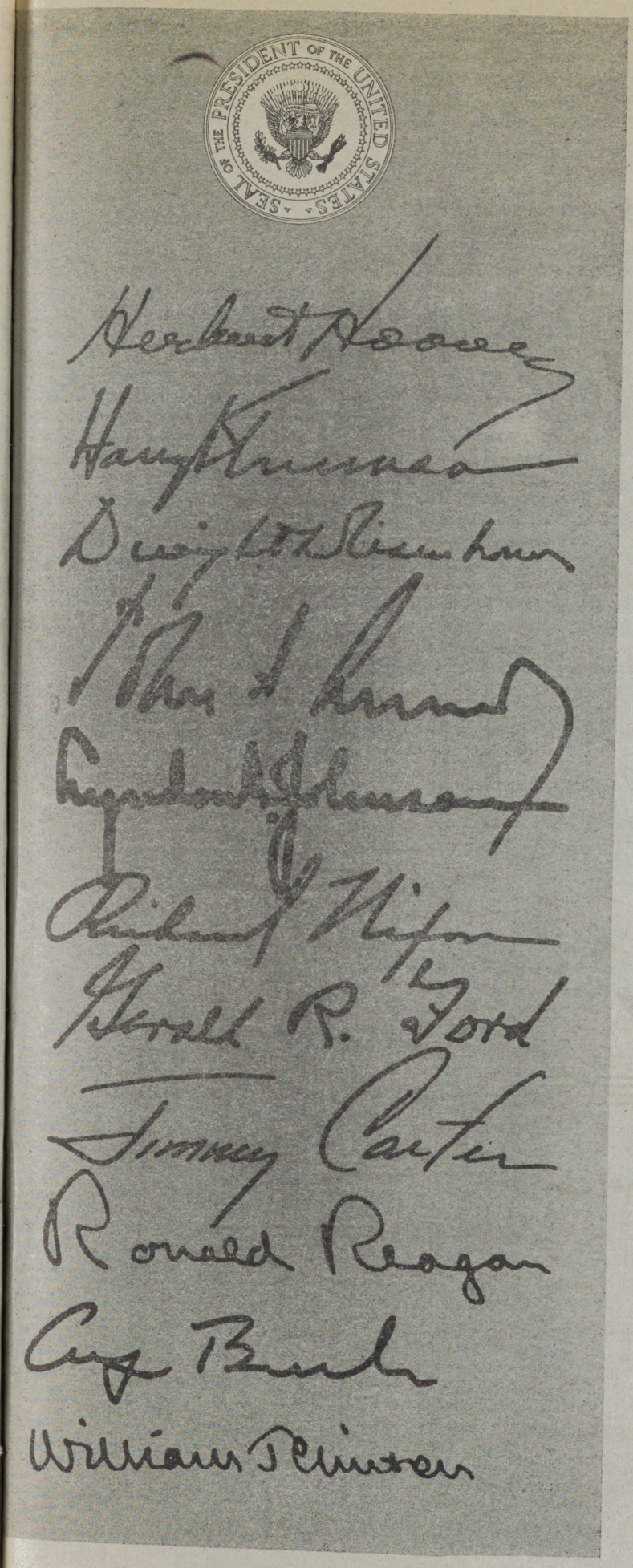

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