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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** December 15, at 9:00 a.m.
- WHERE:** Office of the Federal Register Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538

NEW YORK, NY

- WHEN:** December 13, 9:30 a.m.-12:30 p.m.
- WHERE:** National Archives—Northeast Region, 201 Varick Street, 12th Floor, New York, NY
- RESERVATIONS:** 1-800-347-1997



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Electronic Bulletin Board

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

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Rules and Regulations

Federal Register

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Friday, November 25, 1994

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 94-068-2]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of Louisiana from a modified accredited State to an accredited-free State. We have determined that Louisiana meets the criteria for designation as an accredited-free State.

EFFECTIVE DATE: December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph S. VanTiem, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the *Federal Register* on July 19, 1994 (59 FR 36691-36692, Docket No. 94-068-1), we amended the tuberculosis regulations in 9 CFR part 77 by removing Louisiana from the list of modified accredited States in § 77.1 and adding it to the list of accredited-free States in that section.

Comments on the interim rule were required to be received on or before September 19, 1994. We did not receive

any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 77.1 and that was published at 59 FR 36691-36692 on July 19, 1994.

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 18th day of November 1994.

Alex B. Thiermann,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-29096 Filed 11-25-94; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AF25

Change in Organizational Title and Telephone Numbers

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations regarding petitions for rulemaking to indicate the current title of the organization within the NRC from which a prospective petitioner may seek consultation before filing a petition for rulemaking. This amendment also supplies the current telephone numbers for a prospective petitioner to contact

the NRC before filing a petition for rulemaking.

EFFECTIVE DATE: November 25, 1994.

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

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission is revising the regulations in 10 CFR Part 2 that pertain to filing of petitions for rulemaking to reflect a name change of the NRC organization from which a prospective petitioner may consult with the NRC before filing a petition for rulemaking. This action indicates that the name of the Regulatory Publications Branch, in the Division of Freedom of Information and Publications Services, Office of Administration, has been changed to the Rules Review and Directives Branch (RRDB). The current telephone number on which a prospective petitioner may directly contact RRDB is now (301) 415-7158. The public access toll free telephone number, (800) 368-5642, is unchanged.

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

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork

Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0036.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendment to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for Part 2 continues to read in part as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953 as amended (42 U.S.C. 2201, 2231); Sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); Sec. 201, 88 Stat. 1242 as amended (42 U.S.C. 5841); 5 U.S.C. 552.
* * *

§ 2.802 [Amended]

2. In § 2.802, the introductory text of paragraph (b), remove the words "Regulatory Publications Branch" and add the words "Rules Review and Directives Branch" in the first and second sentences. Remove the telephone number "(301) 492-7086" and add the telephone number "(301) 415-7158."

Dated at Rockville, Maryland, this 14th day of November 1994.

For the Nuclear Regulatory Commission:

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94-29049 Filed 11-23-94; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 94-20]

RIN 1557-AB14

Capital Adequacy: Net Unrealized Holding Gains and Losses on Available-For-Sale Securities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) has determined not to adopt its proposal to include the Statement of Financial Accounting Standard No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (FAS 115), adjustment for net unrealized holding gains and losses on available-for-sale securities in Tier 1 capital. Based upon analysis of the comments received and having considered the potential consequences of including the FAS 115 adjustment in Tier 1 capital, the OCC, in consultation with the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (Federal banking agencies), determined not to amend the definition of Tier 1 capital as previously proposed.

The OCC also decided to maintain the current requirement that national banks deduct net unrealized losses on equity securities when calculating Tier 1 capital. However, because FAS 115 changed the names and requirements of the security classifications in the investment portfolio, this final rule amends the definition of common stockholders' equity to reflect the revised classifications used for equity securities that are not in the trading account.

EFFECTIVE DATE: December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas G. Rees, Professional Accounting Fellow, (202) 874-5180; J. Ray Diggs, National Bank Examiner (202) 874-5070; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner, (202) 874-5070; Ronald Shimabukuro, Senior Attorney, or William W. Templeton, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874-5060, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

Under the current OCC minimum capital requirements (leverage ratio) and the risk-based capital guidelines set forth at 12 CFR part 3 appendix A, section 1(c)(7), a major component of Tier 1 capital is common stockholders' equity. Common stockholders' equity currently includes:

- (1) common stock,
 - (2) common stock surplus,
 - (3) undivided profits,
 - (4) capital reserves,
 - (5) adjustments for the cumulative effect of foreign currency translation, and
 - (6) net unrealized losses on noncurrent marketable equity securities.
- The net unrealized losses are those recorded under Statement of Financial Accounting Standards No. 12, "Accounting for Certain Marketable Securities" (FAS 12).

FAS 115

In May 1993, the Financial Accounting Standards Board (FASB) issued FAS 115. This statement superseded FAS 12. FAS 115 required that all securities be grouped into one of three classifications: held-to-maturity, trading, or available-for-sale. Most significantly, FAS 115 established net unrealized holding gains and losses on available-for-sale securities as a new component of common stockholders' equity.

FAS 115 defines available-for-sale securities as those securities that a bank does not have the positive intent and ability to hold to maturity, and does not intend to trade actively as part of its trading account. FAS 115 increases the number of securities that banks must account for at market value. Consequently, numerous securities previously reported by banks at amortized cost will now be reported at their market value. In August 1993, the Federal Financial Institutions Examination Council (FFIEC) announced the adoption of FAS 115 for regulatory reporting purposes, effective January 1, 1994. Accordingly, all national banks follow FAS 115 for reporting purposes.

Proposal

On April 18, 1994, the OCC proposed to adopt FAS 115 for regulatory capital purposes (59 FR 18328, April 18, 1994). The other Federal banking agencies published similar proposals to adopt FAS 115 for regulatory capital purposes. See 58 FR 68563 (December 28, 1993) (Federal Reserve Board); 58 FR 68781 (December 29, 1993) (Federal Deposit

Insurance Corporation); 59 FR 32143 (June 22, 1994) (Office of Thrift Supervision). The OCC issued the proposal to promote greater consistency of regulatory capital rules with generally accepted accounting principles (GAAP). At the same time, the OCC wanted to understand the industry sentiment regarding the costs and benefits of adopting FAS 115, and to determine banks' assessment of their ability to manage the potential volatility in regulatory capital.

Review of Comments

The comment period for the OCC's proposal closed on May 18, 1994. Among the 69 commenters, 61 were banks, thrifts or holding companies; five were financial institution trade groups; one was a public accounting firm; one was an investment banking firm, and one was a clearinghouse association. Fifty-five of the commenters opposed the proposal to include net unrealized holding gains on available-for-sale securities in Tier 1 capital.

Opposition to the proposal focused on the belief that including the net unrealized holding gains and losses on available-for-sale securities in regulatory capital would result in excessive volatility in regulatory capital levels. Many commenters observed that temporary market conditions could cause banks to change capital levels. Although an interest rate change causing a change in a security's market value may be temporary, the fluctuation in Tier 1 capital could trigger more permanent regulatory provisions and sanctions tied to a bank's level of capitalization. For example, a change in capital could limit a bank's ability to acquire brokered deposits or increase a bank's deposit insurance premiums. In an extreme case, a bank could be subject to prompt corrective action restrictions, sanctions, and penalties.

A few commenters were critical of the market value accounting approach. These commenters believe that recognizing unrealized gains and losses directly in capital would present a misleading report of a bank's financial condition. Although these unrealized gains and losses may reflect market value, banks may never realize the dollar values of these unrealized gains and losses. Several commenters believe that FAS 115 is not consistent in its approach because it requires banks to account for certain assets at fair market value while liabilities are valued at cost. These commenters believe that by focusing only on certain assets, FAS 115 does not properly consider the effects of market changes on other components of bank balance sheets.

Several commenters opposed this proposal because of another recent OCC notice of proposed rulemaking to link the lending limits on loans to one borrower to the capital adequacy rules (59 FR 6593, February 11, 1994). These commenters observed that if the OCC adopts both proposals, an unacceptable level of volatility would be introduced to bank lending limits. As a result, the capital rules could restrain a bank's ability to lend to a single borrower in times of rising interest rates.

Of the ten commenters favoring the proposal, eight believe that the OCC should make its capital adequacy rules consistent with GAAP. Several of these commenters indicated that they would incur additional recordkeeping expenses if the regulatory definition of capital differs from the GAAP definition. These commenters believe that the regulatory burden would be increased by excluding the FAS 115 adjustment from Tier 1 capital. However, several commenters from smaller banks contradicted this view. These commenters stated that adoption of the proposal to include net unrealized holding gains and losses in stockholders' equity would increase regulatory burden because they would have to change their investment and portfolio management procedures.

A few commenters believe that adoption of the proposed rule would be consistent with the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. 102-242 (1991). Specifically, the commenters refer to section 121 of FDICIA which requires that the Federal banking agency regulatory accounting policy, applicable to reports or statements filed with Federal banking agencies, be no less stringent than GAAP.

Several commenters indicated that they did not see any benefit from implementing FAS 115 for regulatory capital purposes. They believe that the costs of implementing the proposal would exceed any benefits obtained. These commenters believe adoption of the proposal would reduce bank profitability. These commenters also believe that greater volatility in the investment portfolio would translate into greater volatility in bank capital.

Several commenters believe that banks may change their investment strategies to avoid the potential adverse consequences of volatility in capital levels. These commenters predict that banks would attempt to manage the volatility by purchasing lower-yielding securities of shorter duration. Banks would shorten the duration of their securities to minimize the potential for depreciation due to increases in interest

rates. Banks could also limit the types of securities acquired to those with less interest rate risk. Portfolios with lower volatility risk would produce lower yields, resulting in smaller profit margins.

A few commenters observed that to avoid volatility in regulatory capital, bank management may pay more attention to the short-term impacts of portfolio decisions instead of emphasizing long-term investment management strategies. The proposal could result in a reduction of a portfolio manager's flexibility to respond to changing market conditions.

Commenter Alternatives

Several commenters suggested alternative methods of adopting FAS 115 for regulatory capital. A few commenters suggested revising the regulatory capital rules to include the net unrealized holding gains and losses on available-for-sale securities in Tier 2 capital. However, the OCC believes that adoption of this alternative would increase the complexity of the risk-based capital calculations. In addition, because FAS 115 significantly increased the number of securities subject to market valuation, including the unrealized gains and losses in Tier 2 capital may not prevent volatility in regulatory capital levels.

Several commenters suggested that other balance sheet accounts, particularly liabilities, should be reported at their market values. These commenters argue that regulatory capital could then include the net unrealized holding gains and losses on these other balance sheet accounts. This would result in a more consistent treatment of assets and liabilities. The OCC agrees that a more consistent method of applying market values to assets and liabilities would result in a better approach. However, since the FASB was unable to identify a workable approach for valuing liabilities when it developed FAS 115, the OCC concluded that this modification would require considerably more research. Therefore, the OCC concluded that it could not implement this suggestion at this time.

Another commenter suggested that the OCC include net unrealized holding gains and losses on available-for-sale securities in regulatory capital, but exclude the adjustment from capital calculations that are tied to other regulations such as prompt corrective action or FDIC insurance premiums. This approach would also be complex and burdensome and essentially require a bank to maintain yet another set of capital calculations. Accordingly, the

OCC determined not to implement this alternative.

Another commenter suggested that banks disclose market values but exclude them from regulatory capital. Since the OCC has adopted FAS 115 for regulatory reporting, but will not adopt it for regulatory capital purposes, in effect, the OCC is implementing this suggestion.

The Final Rule

After considering all the comments received, the OCC, in consultation with the other Federal banking agencies, decided not to adopt the proposal to include the net unrealized holding gains and losses on available-for-sale securities in the definition of common stockholders' equity. The significant changes in market interest rates that occurred during the first two quarters of 1994 demonstrated that bank capital levels could be significantly more volatile if the definition of common stockholders' equity included the FAS 115 adjustment for net unrealized holding gains and losses. This is especially true for smaller banks that tend to have more of their assets in marketable securities. Additionally, smaller banks may lack the financial resources to establish a portfolio management function dedicated to hedging interest rate risks.

Based on the comment letters received, the OCC determined that including the FAS 115 adjustment in capital could have consequences that may adversely impact the banking industry. For example, market-driven fluctuations in interest rates could cause temporary changes in regulatory capital levels, which in turn could trigger inappropriate regulatory intervention. In addition, industry profitability could decline due to higher expenses and lower investment yields, simply due to the accounting implications of FAS 115. The OCC is concerned that adoption of the proposal would encourage management to place excessive weight on the accounting implications of their decisions, rather than on their long-term economic impacts.

Additionally, the OCC is concerned that the lack of consistent application of market valuation for assets and liabilities would present a misleading report of a bank's regulatory capital. Since FAS 115 only requires market value accounting for certain segments of the investment portfolio, only one side of the balance sheet reflects the impact of interest rate changes. The OCC believes it would be inappropriate to take regulatory action without evaluating the impact of rate changes on both sides of the balance sheet.

The OCC, considered the comments received regarding FDICIA's requirement that regulatory accounting policy be no less stringent than GAAP. In fact, section 121 of FDICIA (12 U.S.C. 1831n) requires that policies applicable to reports and statements filed with the Federal banking agencies conform to GAAP. The section does not require the calculation of an institution's regulatory capital or the components of regulatory capital to conform to GAAP, and the legislative history of the section indicates that was not the intent of Congress. By adopting FAS 115 for regulatory reporting purposes, the OCC's policy conforms to the section 121 requirement.

Although the OCC and other Federal regulatory agencies attempt to conform to GAAP when formulating regulatory policy, it is not always appropriate. When formulating GAAP, the accounting policy makers do not focus on the unique capital adequacy requirements of banks. Moreover, the bank regulators' framework of bank supervision is being linked increasingly to capital levels. Therefore, it is logical to expect some differences between GAAP and bank regulatory policy in appropriate circumstances. In fact, the definition of capital in the capital adequacy rules already differs from the GAAP definition. For example, the regulatory definition includes a limited amount of the allowance for loan and lease losses (ALLL) in Tier 2 capital, while the GAAP definition of capital does not include any amount of ALLL. By adopting FAS 115 for regulatory reporting, the agencies minimized the difference between the Reports of Condition and Income (Call Reports) and financial reports issued under GAAP.

Additionally, the OCC and the other Federal banking agencies recognize that the net unrealized holding gains and losses recorded under FAS 115 are often temporary.

Therefore, because Tier 1 capital, or "core capital," is intended to be permanent in nature, the OCC believes the definition of Tier 1 capital should not include these unrealized gains and losses. Such treatment would be inconsistent with the capital measurement and standards provisions of the Basle Accord, an international agreement of the central banks and supervisory authorities of ten countries.

Change to Common Stockholders' Equity

In addressing the issues raised by the commenters on the merits of including unrealized gains and losses in regulatory capital, the OCC considered

eliminating the requirement to deduct unrealized losses on noncurrent marketable equity securities. However, the OCC believes the use of amortized cost is relevant for debt securities but not for equities. Absent the default of the issuer, a debt security will realize its face amount. However, an equity security does not have a maturity value. Consequently, the market value of an equity security represents the best measure of its worth.

The OCC believes market value is the appropriate method of valuing equities, but does not believe it is appropriate to include unrealized gains in regulatory capital. The OCC and the other Federal agencies have a long-standing policy of excluding all unrealized gains from Tier 1 capital and do not believe it is appropriate to deviate from this policy. Accordingly, the OCC decided to retain the requirement to deduct unrealized losses on equity securities. This final rule clarifies the description of the deduction and revises the definition of common stockholders' equity to reflect the new security classification specified under FAS 115. Accordingly, banks must adjust Tier 1 capital for net unrealized holding losses on equity securities with readily determinable fair values held in the available-for-sale portfolio.

Other Issues

To ensure regulators do not ignore significant unrealized depreciation in the market value of securities when assessing a bank's safety and soundness, examiners will consider both unrealized gains and losses in their evaluation of the adequacy of a bank's regulatory capital. When unrealized losses could threaten a bank's financial condition, other regulatory actions that are based on regulatory capital may be initiated.

Examiners will use their discretion to determine if a national bank has taken an investment approach that is inconsistent with the OCC's description of suitable investment practices. If it appears that an institution is artificially manipulating security classifications to increase regulatory capital, examiners may require banks to account for securities at market values instead of amortized cost. The OCC plans to issue additional guidance that will describe how unrealized gains and losses will be considered and what actions examiners will take when they detect gains trading and other unsafe practices.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on

a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This final rule will not increase the number of banks that do not meet regulatory capital standards. The effect on capital will be minimal regardless of bank size.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

List of Subjects in 12 CFR Part 3

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 3 of title 12, chapter I, of the Code of Federal Regulations is amended as set forth below.

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831(n) note, 3907, and 3909.

2. In appendix A to part 3, paragraph (c)(7) of section 1 is revised to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

Section 1. Purpose, Applicability of Guidelines, and Definitions.

* * * * *

(c) * * *

(7) *Common stockholders' equity* means common stock, common stock surplus, undivided profits, capital reserves, and adjustments for the cumulative effect of foreign currency translation, less net unrealized holding losses on available-for-sale equity securities with readily determinable fair values.

* * * * *

Dated: November 8, 1994.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 94-29110 Filed 11-23-94; 8:45 am]

BILLING CODE 4810-33-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-34962A; File No. S7-6-94]

RIN 3235-AF84

Confirmation of Transactions; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Corrections to final rule.

SUMMARY: This document contains corrections to recent amendments to Rule 10b-10 under the Securities Exchange Act of 1934 (Securities Exchange Act Release No. 34962) that were published in the *Federal Register* on Thursday, November 17, 1994 (59 FR 59612). Rule 10b-10 requires brokers and dealers that effect a securities transaction for a customer to send an immediate confirmation containing information relevant to the transaction.

EFFECTIVE DATES: April 3, 1995.

FOR FURTHER INFORMATION CONTACT:

C. Dirk Peterson, Senior Counsel, (202/942-0073), Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 7-10, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 10b-10 under the Securities Exchange Act of 1934 requires, among other things, that non-market maker brokers and dealers disclose their mark-ups and mark-downs in riskless principal transactions in equity securities. This disclosure requirement was adopted by the Securities and Exchange Commission in 1977 in Securities Exchange Act Release No. 13508, and amended in Securities Exchange Act Release No. 34962.

Need For Correction

The amendments to Rule 10b-10 contain an error in the mark-up and mark-down disclosure requirements for riskless principal transactions in equity securities. Specifically, the modifying term "equity" was omitted from (a)(2)(ii)(A) of Rule 10b-10. This disclosure requirement should apply solely to equity securities.

Correction of Publication

Accordingly, the publication on November 17, 1994 containing the adoption of amendments to Rule 10b-10 which were published in 59 FR 59612 is corrected as follows:

§ 240.10b-10 [Corrected]

On page 59621, in the first column, § 240.10b-10, paragraph (a)(2)(ii)(A) in the second line, the word "that" is removed and the phrase "an equity" is added to precede the word "security".

On page 59621, in the first column, § 240.10b-10, paragraph (a)(2)(ii)(A) in the fifth line, the word "equity" is added to precede the word "security".

Dated: November 18, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94-29063 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

[Docket No. 85N-0049]

RIN 0905-AA06

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Final Monograph; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the *Federal Register* of August 26, 1993 (58 FR 45204). The document amended the final monograph for over-the-counter (OTC) antacid drug products to require that all antacid drug products contain the statement: "Drug Interaction Precaution: Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician or other health professional." The document was published with an error in the amendatory language. This document corrects that error.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Center for Drug Evaluation and Research (HFD-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5000.

SUPPLEMENTARY INFORMATION: FDA has discovered that the amendatory language in the final rule published in the *Federal Register* of August 26, 1993 (58 FR 45204), was incorrect. The amendatory language, as published, revised the introductory text of § 331.30(d); it should have revised § 331.30(d) to remove paragraph (d)(1). Accordingly, FDA is removing paragraph (d)(1) to correct this error.

List of Subjects in 21 CFR Part 331

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 331 is amended as follows:

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

1. The authority citation for 21 CFR part 331 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

§ 331.30 [Amended]

2. Section 331.30 *Labeling of antacid products* is amended by removing paragraph (d)(1).

Dated: November 16, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94-28949 Filed 11-23-94; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[TD 8569]

RIN 1545-AS44

Alternative Minimum Taxable Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the alternative minimum tax (AMT). The regulations provide guidance on the computation of alternative minimum taxable income (AMTI) with respect to items that are determined by reference to adjusted gross income (AGI). The regulations affect taxpayers who are subject to the alternative minimum tax.

DATES: These regulations are effective November 25, 1994.

These regulations are applicable to taxable years beginning after December 31, 1993.

FOR FURTHER INFORMATION CONTACT:

Forest Boone of the Office of Assistant Chief Counsel (Income Tax and Accounting) at (202) 622-4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

On March 18, 1994, a notice of proposed rulemaking (IA-4-94) was published in the *Federal Register* (59 FR 12880) which contained proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 55 of the Internal Revenue Code (Code). A detailed explanation of the

proposed regulations is contained in the preamble to those regulations. The proposed regulations provide that, in general, all Code provisions that apply in determining the regular taxable income of a taxpayer also apply in determining the AMTI of the taxpayer. However, the proposed regulations provide that, for purposes of computing the AMTI of a noncorporate taxpayer, all references to the taxpayer's AGI in determining the amount of any item of income, exclusion, or deduction must be treated as references to the taxpayer's AGI as determined for regular tax purposes.

The IRS received written comments on the proposed regulations and on June 6, 1994, held a public hearing on those regulations. After consideration of the comments received and the statements made at the public hearing, the proposed regulations are revised and adopted as final regulations by this Treasury decision.

Discussion

In the Tax Reform Act of 1986, Congress expanded the application of the alternative minimum tax (AMT) for individual taxpayers. Although Congress generally intended that the AMT be treated as a tax system separate from and parallel to the regular tax system, in certain limited instances deviations from the separate and parallel concept may be necessary to reduce complexity and ease administrative burden. See Staff of the Joint Committee on Taxation, 100th Cong., *General Explanation of the Tax Reform Act of 1986* 438 n.9 (Comm. Print 1987).

Some commentators suggested that there should be even greater conformity between the AMT and regular tax systems than that provided in the proposed regulations. These commentators urged that, in computing AMTI, all references to taxable income or a component thereof (such as AGI, modified AGI, earned income, or taxable business income) should be treated as references to regular taxable income or a component thereof for purposes of determining any item of income, exclusion, or deduction.

Other commentators stated that any regulatory attempt at conformity was inappropriate. According to these commentators, the separate and parallel system should be adhered to in full.

Finally, there were some commentators who suggested that taxpayers be allowed to make a binding election to make computations based either on regular tax AGI or AMT AGI.

If, in computing AMTI, all items of income, exclusion, or deduction that are

determined by references to defined measures of income were based on such defined measures as determined for regular tax purposes, the system envisioned by Congress would be substantively changed. Accordingly, the final regulations have not been expanded to provide that all references to taxable income, or a component thereof, be treated as references to regular taxable income, or a component thereof, in computing AMTI. The final regulations clarify, however, that for purposes of computing the AMTI of a noncorporate taxpayer, all references to the taxpayer's modified AGI in determining the amount of any item of income, exclusion, or deduction must be treated as references to the taxpayer's modified AGI as determined for regular tax purposes.

The final regulations also do not adopt the suggestion that an election be permitted to use either regular tax AGI or AMT AGI in computing AMTI. Such an election would add administrative complexity to the AMT and would be contrary to the goal of simplicity sought by these regulations.

The proposed regulations were intended to reduce complexity without deviating from the separate and parallel concept to such an extent that the purpose of the AMT provisions would be subverted. The Treasury and the IRS believe that the general intent of Congress to apply the AMT on a separate and parallel basis is not undermined where this concept is not followed in limited, specific instances for the purpose of reducing some of the complexity and recordkeeping burdens of the AMT. Accordingly, the final regulations adopt the provisions of the proposed regulations in full.

The IRS continues to consider other possible areas of the AMT where the separate and parallel concept should, on a limited basis, be modified in order to reduce complexity. The IRS may, in the future, address other possible areas through regulations or other published guidance.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking

preceding these regulations was submitted to the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Forest Boone of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.55-1 is added to read as follows:

§ 1.55-1 Alternative minimum taxable income.

(a) *General rule for computing alternative minimum taxable income.* Except as otherwise provided by statute, regulations, or other published guidance issued by the Commissioner, all Internal Revenue Code provisions that apply in determining the regular taxable income of a taxpayer also apply in determining the alternative minimum taxable income of the taxpayer.

(b) *Items based on adjusted gross income or modified adjusted gross income.* In determining the alternative minimum taxable income of a taxpayer other than a corporation, all references to the taxpayer's adjusted gross income or modified adjusted gross income in determining the amount of items of income, exclusion, or deduction must be treated as references to the taxpayer's adjusted gross income or modified adjusted gross income as determined for regular tax purposes.

(c) *Effective date.* These regulations are effective for taxable years beginning after December 31, 1993.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: October 14, 1994.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 94-28980 Filed 11-23-94; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[AG ORDER No. 1932-94]

Costs of Incarceration

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule provides for the collection and establishment of a fee to cover the cost of incarceration of inmates committed to the custody of the Attorney General, and for the further administration of this procedure by the Director, Bureau of Prisons. This rule is promulgated to implement newly enacted statutory authority on recovering the costs of incarceration. The rule also is intended to help ensure the continued efficient operation of federal correctional institutions, including the provision of beneficial programming for inmates.

EFFECTIVE DATE: December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, HOLC Room, 754, 320 First Street, NW., Washington, DC 20534, telephone (202) 514-6655.

SUPPLEMENTARY INFORMATION: On April 5, 1994, the Department of Justice published a proposed rule, to be codified at 28 CFR part 0, providing for the assessment and collection of a fee to cover the costs of incarceration of inmates committed to the custody of the Attorney General, and for the further administration of this procedure by the Director, Bureau of Prisons. (59 FR 15880.) The other provisions for the administration and collection of the fee had been contained in a proposed rule previously published on June 28, 1993. These provisions will be promulgated by the Bureau of Prisons (Bureau) in a separate document.

Comments on the proposed rule were received from one individual. A portion of these comments related to the provisions previously proposed on June 28, 1993 which are to appear in the Bureau's final rule. These comments are noted here and will be fully addressed in the Bureau's document.

The commenter objected to the proposed rule stating that the fee was clearly a punishment which would be additional to any imposed by the court. The commenter stated that the basis of the proposed rule was unexplained and alleged that the fee would prove to be an economic hardship to inmates, that inmates would be at greater risk to return to criminal behavior upon release

from prison, and that families of inmates would be impoverished through application of the regulations. In response, the Department notes that the regulations implement the clearly stated provisions of the statute to establish and collect a fee to cover the costs of confinement. The statute (Pub. L. 102-395, section 111, 106 Stat. 1828, 1842) and implementing Bureau regulations also clearly provide for protection against unduly burdening the inmate or the inmate's dependents, including cases where a judge has imposed or waived a fine pursuant to section 5E1.2 (f) and (i) of the United States Sentencing Guidelines, or any successor provisions. Further discussion of these protections are contained in the final rule to be published by the Bureau of Prisons.

The commenter claimed that the proposed rule was unfair to pretrial inmates who cannot afford bail. The Department notes that the statute and regulations are not applicable to pretrial inmates.

The commenter objected to the delegation to the Director of Bureau of Prisons of the authority to collect the fine and to promulgate all regulations concerning the collection of the fee, claiming that the Director did not have the expertise for collecting the fee and was not in a position to understand the ramifications of imposing the fee. In making this point, the commenter suggested that a judge was better suited to understand " * * * the ramifications of this punishment fine [sic]." In response, the Department notes that existing Bureau regulations on inmate financial responsibility (see 28 CFR part 545, subpart B) demonstrate the Bureau's expertise in such matters. As noted above, the fee to cover the cost of incarceration is required under statutory authority and further delegation of this authority by the Attorney General outside the executive branch, as suggested by the commenter, would be inappropriate.

The commenter disagreed with the Attorney General's certification pursuant to 5 U.S.C. 605(b) that the rule will not have a significant economic impact on a substantial number of small entities, arguing that imprisoned people may own small businesses in whole or in part. As noted in its response to comment in the April 5, 1994 proposed rule, the Attorney General's certification pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-12, is appropriate in this case. Inmates and their families in general do not satisfy the definition of a "small entity" under the Act. Furthermore, any inmate who owns a small business in whole or in

part is separately enjoined by Bureau regulations from conducting such business while incarcerated.

The commenter objected to the provision treating revocation of parole or supervised release as a separate period of incarceration for which a fee may be imposed. As previously noted in its response to comment in the April 5, 1994 proposed rule, the Department believes this interpretation is reasonable because, in each instance, the offender's conduct results in a distinct incarceration period and an additional expense to the Attorney General for the cost of the confinement.

The commenter expressed concern over the determination of the exact cost of imprisonment, citing higher figures allegedly mentioned in news stories. The Department notes that the determination of each year's fee through computation of the formula contained in § 0.96c(b) is designed to prevent any confusion over what is the cost of incarceration in the federal system.

This rule is a matter of internal department management. It will not have a significant economic impact on a substantial number of small entities. This rule was not reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

List of Subjects in 28 CFR Part O

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in the Attorney General by law, including 5 U.S.C. 301 and 28 U.S.C. 509-510, part O of title 28 of the Code of Federal Regulations is amended as follows:

PART O—[AMENDED]

1. The authority citation for 28 CFR part O continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

2. In subpart Q, a new § 0.96c is added to read as follows:

§ 0.96c Cost of incarceration.

(a) The Attorney General is required to establish and collect a fee to cover the cost of one year of incarceration. These provisions apply to any person who is convicted in a United States District Court and committed to the custody of the Attorney General, and who begins service of sentence on or after December 27, 1994. For the purposes of this subpart, revocation of parole or supervised release shall be treated as a separate period of incarceration for which a fee may be imposed.

(b) The fee to cover the costs of incarceration shall be calculated by dividing the number representing the obligation encountered in Bureau of Prisons facilities (excluding activation costs) by the number of inmate-days incurred for the year, and by then multiplying the quotient by 365. The resulting figure represents the average cost to the Bureau for confining an inmate for one year.

(c) The Director of the Bureau of Prisons is delegated the authority to collect the fee to cover the cost of incarceration from inmates committed to the custody of the Attorney General and to promulgate all regulations concerning the collection of the fee.

(d) The Director shall review and determine the amount of the fee not less than annually in accordance with the formula set forth in paragraph (b) of this section. The Director shall publish each year's fee as a Notice in the *Federal Register*.

Dated November 15, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94-29029 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations; Unblocking of Cambodian Assets

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to the settlement agreement entered into on October 6, 1994, between the Government of the United States and the Royal Cambodian Government, the Office of Foreign Assets Control is unblocking assets in which Cambodia or a national thereof has an interest, blocked pursuant to the Foreign Assets Control Regulations. **EFFECTIVE DATE:** November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the *Federal Register*. By modem dial 202/

512-1387 or call 202/512-1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

On January 3, 1992, former President Bush lifted the trade embargo against Cambodia and authorized new financial and other transactions with Cambodia and its nationals. Property blocked as of January 2, 1994, because of an interest therein of Cambodia or its nationals, however, remained blocked pending a settlement agreement between the two countries. On October 6, 1994, a settlement was reached between the United States Government and the Royal Cambodian Government, providing that Cambodian property be unblocked. Accordingly, this rule amends § 500.570 of the Foreign Assets Control Regulations, 31 CFR part 500, to unblock assets in which there is an interest of Cambodia or a national thereof effective November 25, 1994, with the exception of funds blocked in the name of the Exchange Support Fund for the Khmer Republic (the "ESF"). ESF funds, representing contributions of various countries to assist in financing Cambodia's foreign exchange costs of imports and related services, will be unblocked in coordination with the various donor countries.

The authorization in § 500.570 does not excuse compliance with any applicable provision of law, nor compliance with reporting requirements imposed by general or specific licenses with respect to transactions prior to November 25, 1994. Further, the amendment does not affect penalty or enforcement proceedings with respect to violations of part 500 arising prior to that date.

Because the FACR involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, Banking, Cambodia, Finance, Foreign investments in U.S., Foreign trade, International organizations, North Korea, Penalties, Reporting and recordkeeping requirements, Securities, Services, Telecommunications, Travel restrictions, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 is revised to read as follows:

Authority: 50 U.S.C. App. §§ 1-44; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 500.570 is revised to read as follows:

§ 500.570 Cambodian property unblocked.

All transactions otherwise prohibited by this part which involve property in which Cambodia or a national thereof has an interest, other than property blocked in the name of the Exchange Support Fund for the Khmer Republic, are authorized.

Dated: November 1, 1994.

Steven I. Pinter,
Acting Director, Office of Foreign Assets Control.

Approved: November 7, 1994.

R. Richard Newcomb,
Acting Deputy Assistant Secretary (Law Enforcement).

[FR Doc. 94-29111 Filed 11-23-94; 8:45 am]

BILLING CODE 4810-25-F

Cemetery, Arlington, Virginia 22211-5003.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Metzler, Jr., (703) 695-3175.

SUPPLEMENTARY INFORMATION: The Department of the Army is amending 32 CFR Part 553 in accordance with Section 1176 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160. That Section extended eligibility for interment in Arlington National Cemetery to any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service and who dies on or after the date of enactment of the 1994 Authorization Act (November 30, 1993).

This rule governs eligibility for interment in Arlington National Cemetery, an Army national cemetery which is under the jurisdiction of the Department of the Army. Because the rule pertains to a military function of the Department of the Army, the provisions of Executive Order 12866 do not apply. It is hereby certified that this interim final rule will not have a significant impact on small businesses or governments in the area.

List of Subjects in 32 CFR Part 553

Cemeteries, National Cemeteries.

For the reasons set out in the preamble, 32 CFR Part 553 is amended as follows:

PART 553—ARMY NATIONAL CEMETERIES

1. The authority citation for 32 CFR Part 553 continues to read:

Authority: 24 U.S. Code, Chapter 7.

2. In § 553.15, paragraphs (f) through (i) are redesignated as paragraphs (g) through (j) and new paragraph (f) is added to read as follows:

§ 553.15 Persons eligible for burial in Arlington National Cemetery

* * * * *

(f) Any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service, whose last period of active military, naval, or air service terminated honorably and who died on or after November 30, 1993.

(1) The term "former prisoner of war" means a person who, while serving in the active military, naval, or air service, was forcibly detained or interned in line of duty—

(i) By an enemy government or its agents, or a hostile force, during a period of war; or

(ii) By a foreign government or its agents, or a hostile force, under

circumstances which the Secretary of Veterans Affairs finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(2) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

* * * * *

3. In § 553.15a, paragraphs (e) through (h) are redesignated as paragraphs (f) through (i) and new paragraph (e) is added to read as follows:

§ 553.15a Persons eligible for inurnment of cremated remains in Columbarium in Arlington National Cemetery.

* * * * *

(e) Any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service, whose last period of active military, naval, or air service terminated honorably and who died on or after November 30, 1993.

(1) The term "former prisoner of war" means a person who, while serving in the active military, naval, or air service, was forcibly detained or interned in line of duty—

(i) By an enemy government or its agents, or a hostile force, during a period of war; or

(ii) By a foreign government or its agents, or a hostile force, under circumstances which the Secretary of Veterans Affairs finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(2) The term "active, military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

* * * * *

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94-29026 Filed 11-23-94; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Eligibility of Former Prisoners of War (POWs) for Interment in Arlington National Cemetery

AGENCY: Department of the Army, DOD.

ACTION: Interim Final Rule.

SUMMARY: In accordance with Section 1176 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, the Department of the Army is amending the regulations governing eligibility for interment in Arlington National Cemetery to include former prisoners of war (POWs).

DATES: Effective date: November 25, 1994. Comments must be received not later than December 27, 1994.

ADDRESSES: All comments concerning this interim final rule should be addressed to John C. Metzler, Jr., Superintendent, Arlington National

DEPARTMENT OF VETERANS
AFFAIRS

38 CFR Part 3

RIN 2900-AG44

Disability Due to Impaired Hearing

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs adjudication regulations regarding the definition of disability due to impaired hearing to clarify that it merely sets forth the base criteria for determining the point at which impaired hearing is considered a disability. This document does not constitute a substantive change to the regulation.

DATES: This amendment is effective December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Don England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC, 20420, (202) 273-7212.

SUPPLEMENTARY INFORMATION: The amendment made by this document was published as a proposal in the *Federal Register* of September 16, 1993, 58 FR 48483-4. Interested persons were invited to submit comments on or before October 18, 1993.

We received one comment from Disabled American Veterans. The commenter agreed that this change ought to be made but stated that this rulemaking presents VA with an opportunity to reexamine the criteria for determining the point at which hearing loss is a disability and suggested that VA adopt a different formula. We appreciate the commenter's interest in this issue. The suggestion, however, is clearly beyond the scope of this rulemaking.

The information in the proposed rule still provides a basis for this final rule. Accordingly, the proposed rule is adopted without change.

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

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

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

Approved: November 18, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

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

PART 3—ADJUDICATION

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

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

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

2. Section 3.385 is revised to read as follows:

§ 3.385 Disability due to impaired hearing.

For the purposes of applying the laws administered by VA, impaired hearing will be considered to be a disability when the auditory threshold in any of the frequencies 500, 1000, 2000, 3000, 4000 Hertz is 40 decibels or greater; or when the auditory thresholds for at least three of the frequencies 500, 1000, 2000, 3000, or 4000 Hertz are 26 decibels or greater; or when speech recognition scores using the Maryland CNC Test are less than 94 percent.

[FR Doc. 94-29068 Filed 11-23-94; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 9

[FRL-5108-2]

OMB Approval Numbers Under the
Paperwork Reduction Act; Fuels and
Fuel Additives Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice displays the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for the Fuels and Fuel Additives Registration Regulations, Final Rule, as published in the *Federal Register* on June 27, 1994.

EFFECTIVE DATE: This final rule is effective November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Kent M. Helmer, Regulation Development and Support Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan, 48105, phone: (313) 741-7825.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to accurately display those information requirements promulgated under the Fuels and Fuel Additives Registration Regulations, Final Rule which appeared in the *Federal Register* on June 27, 1994 (59 FR 33042). The affected regulations are codified at 40 CFR Part 79. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR Part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

The ICRs were previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 14, 1994.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

PART 9—[AMENDED]

1. Part 9 of Title 40 of the Code of Federal Regulations is amended as follows:

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

Authority: 7 U.S.C. 135 *et seq.*, 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671;

21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

b. Section 9.1 is amended by adding the new entries to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
* * * * *	
PART 79—REGISTRATION OF FUELS AND FUEL ADDITIVES	
* * * * *	
79.51(a), (c), (d), (g), (h)	2060-0150
79.52	2060-0150
79.57(a)(5)	2060-0150
79.57(f)(5)	2060-0150
79.58(e)	2060-0150
79.59(b)-(d)	2060-0150
79.60	2060-0150
79.61(e)	2060-0150
79.62-79.68	2060-0297
* * * * *	

[FR Doc. 94-28971 Filed 11-23-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 70

[WY-001; FRL-5112-1]

Withdrawal for Operating Permit Program; State of Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, EPA is withdrawing the direct final rule published in the *Federal Register* on September 23, 1994 (59 FR 48802) promulgating interim approval of the Operating Permit Program submitted by the State of Wyoming for the purpose of complying with federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources. As stated in the *Federal Register* notice, if adverse or critical comments were received by October 24, 1994, the effective date would be delayed and timely notice would be published in the *Federal Register*. Therefore, due to receiving adverse comments within the comment period, EPA is withdrawing

the final rule (which will delay the effective date of the Wyoming Operating Permit Program) and will address all public comments received in a subsequent final rule based on the proposed rule also published in September 23, 1994 (59 FR 48845). EPA will not institute a second comment period on this document.

DATES: This withdrawal of rulemaking becomes effective November 21, 1994.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the September 23, 1994 *Federal Register*, and in the proposed rule in the September 23, 1994 *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART-AP, Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202, (303) 294-7539.

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental Protection, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: November 17, 1994.

William P. Yellowtail,
Regional Administrator.

[FR Doc. 94-28975 Filed 11-21-94; 12:55 pm]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-45

[FPMR Amendment H-191]

RIN 3090-AF48

Contract Disputes in the Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides guidance regarding contract disputes. The intended effect of this action is to ensure uniformity of application by all agencies.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Grant E. Beattie, Acting Director, Property Management Division (703-305-7240).

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

Regulatory Flexibility Act

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

List of Subjects in 41 CFR 101-45

Government property management, Metals, Surplus Government property.

For the reasons set forth in the preamble, 41 CFR Part 101-45 is amended as follows:

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

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

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

2. Subpart 101-45.4 is added to read as follows:

Subpart 101-45.4—Contract Disputes

Sec.

- 101-45.400 Scope of subpart.
- 101-45.401 The dispute clause.
- 101-45.402 Alternative disputes resolution.

Subpart 101-45.4—Contract Disputes

§ 101-45.400 Scope of subpart.

This subpart provides guidance regarding contract claims and appeals relating to contracts for the sale of personal property under the Contract Disputes Act of 1978, as amended, (41 U.S.C. 601-613). Contracting agencies should seek guidance from the Contract Disputes Act (the Act) and Federal Acquisition Regulation (FAR) 48 CFR Part 33. The Act applies to all contracts entered into by executive agencies for the sale of personal property, except the following:

(a) Contracts with a foreign government or agency of that government when the agency head determines that application of the Act to the contract would not be in the public interest,

(b) Contracts with an international organization or a subsidiary body of that organization, if the agency head determines that the application of the Act to the contract would not be in the public interest, and

(c) Contracts of the Tennessee Valley Authority unless such contracts contain a disputes clause requiring dispute resolution via an administrative process.

§ 101-45.401 The disputes clause.

The disputes clause contained at 48 CFR 52.233-1 must be included in all solicitations and contracts for the sale of personal property unless the exceptions in § 101-45.400 apply.

§ 101-45.402 Alternative disputes resolution.

The Government's policy is to try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Agencies are encouraged to use alternative dispute resolution (ADR) procedures to the maximum extent practicable in accordance with the authority and the requirements of the Administrative Disputes Resolution Act (Pub. L. 101-522) and agency policies.

Dated: November 4, 1994.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 94-28869 Filed 11-23-94; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 2**

[GEN Docket No. 90-56]

Mobile-Satellite Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations, which were published Wednesday, June 30, 1993, (58 FR 34920). The regulations related to the allocation of additional spectrum to the mobile-satellite service.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT:

Tom Mooring, Office of Engineering and Technology, (202) 653-8114.

SUPPLEMENTARY INFORMATION:**Need for Correction**

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 47 CFR Part 2

Frequency allocation, General rules and regulations, Radio.

Accordingly, 47 CFR Part 2 is corrected by making the following correcting amendments:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

§ 2.106 [Corrected]

2. In § 2.106, in Columns (4) through (7) of the Table of Frequency Allocations, in the 1530-1535 MHz band, remove the horizontal line separating the footnotes from the allocations.

3. In § 2.106, in Columns (1) through (7) of the Table of Frequency Allocations, an entry for the 1535-1544 MHz band is added in numerical order to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1535-1544 MARITIME MOBILE-SATELLITE (space-to-Earth). Land Mobile-Satellite (space-to-Earth) 726B.	1535-1544 MARITIME MOBILE-SATELLITE (space-to-Earth). Land Mobile-Satellite (space-to-Earth) 726B.	1535-1544 MARITIME MOBILE-SATELLITE (space-to-Earth). Land Mobile-Satellite (space-to-Earth) 726B.	1535-1544 MARITIME MOBILE-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth).	1535-1544 MARITIME MOBILE-SATELLITE (space-to-Earth).	MARITIME (80).	SATELLITE COMMUNICATIONS (25).
722, 726A, 726C, 726D, 727.	722, 726A, 726C, 726D, 727.	722, 726A, 726C, 726D, 727.	722, 726A, US315	722, 726A, US315		

4. In § 2.106, in Columns (4) through (7) of the Table of Frequency Allocations, in the 1626.5-1645.5 MHz band, remove two horizontal lines separating the footnotes from the allocations.

5. In § 2.106, in Columns (1) through (3) of the Table of Frequency Allocations, add a horizontal line between the 1646.5-1656.5 MHz band and the 1656.5-1660 MHz band.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94-28911 Filed 11-23-94; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Part 219**

[Docket No. RSOR-6; Notice No. 40]

RIN 2130-AA81

Alcohol Testing; Amended Implementation Dates for Pre-Employment Alcohol Testing and Mandatory Reasonable Suspicion Testing

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA amends the implementation dates for pre-employment alcohol testing and mandatory reasonable suspicion testing to allow Class II and Class III railroads to implement these types of testing simultaneously with random alcohol testing (on July 1, 1995, and January 1, 1996, respectively). This new implementation schedule provides more time for smaller railroads to phase-in alcohol testing.

EFFECTIVE DATE: This final rule is effective on January 1, 1995.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Docket

No. RSOR-6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Room 8201, Washington, D.C., 20590.

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

SUPPLEMENTARY INFORMATION:

Background

On February 15, 1994, FRA issued a final rule [59 FR 7448] establishing a railroad industry alcohol misuse prevention program. For random alcohol testing only, FRA adopted a three-tier implementation schedule, similar to the one used to phase-in random drug testing. All other types of alcohol testing (pre-employment, return to service, follow-up, and mandatory reasonable suspicion testing for both alcohol and drugs) were to begin on January 1, 1995, for all classes of railroads.

In response to a Petition for Reconsideration filed by the American Short Line Railroad Association (ASLRA) on April 15, 1994, FRA has decided to allow Class II and Class III railroads to phase-in pre-employment alcohol testing and mandatory reasonable suspicion testing according to the implementation schedule previously established for random alcohol testing. Thus, Class II railroads must now implement pre-employment alcohol testing and mandatory reasonable suspicion testing together with random alcohol testing beginning on July 1, 1995, and Class III railroads must now implement pre-employment alcohol testing, mandatory reasonable suspicion testing, and random alcohol testing beginning on January 1, 1996. FRA anticipates that there will be few, if any, return to service or follow-up alcohol tests until implementation of mandatory reasonable suspicion and random alcohol testing is completed, and that any tests that occur before implementation will presumably be under railroad authority. The implementation date for return to service or follow-up alcohol testing therefore remains January 1, 1995. The amended implementation dates in this rule allow smaller railroads more time to purchase evidential breath testing devices, make contractual arrangements and train supervisors on the new testing requirements. This amendment also conforms FRA's implementation dates

to those adopted by other operating administrations.

This rule does not change the implementation schedule for Class I railroads. As before, Class I railroads must implement *all* types of alcohol testing, including mandatory reasonable suspicion testing according to the new procedures now contained in § 219.303(b) (see discussion below), beginning on January 1, 1995. A railroad may not implement pre-employment alcohol testing or mandatory reasonable suspicion testing before its specified implementation date, and may not, of course, implement random alcohol testing until its plan has been approved by FRA. The schedule for submission of random alcohol testing plans remains the same: Class I railroads must submit their plans by August 15, 1994; Class II railroads must submit by February 15, 1995; and Class III railroads must submit by August 15, 1994.

Although Class II and Class III railroads may not conduct mandatory reasonable suspicion testing before their respective implementation dates, they continue to be responsible for enforcing FRA's existing prohibitions against alcohol misuse and must enforce the new prohibitions contained in FRA's alcohol rule beginning on January 1, 1995. To enable smaller railroads to fulfill this responsibility, FRA will allow Class IIs and IIIs to continue to use *existing* for cause alcohol test procedures and safeguards currently in § 219.303 until their respective deadlines for implementation of mandatory reasonable suspicion testing. These procedures were to be deleted effective January 1, 1995; FRA will instead continue them in force as paragraphs (c) through (e) of § 219.303 until January 1, 1996, the deadline for Class IIIs to implement mandatory reasonable suspicion testing and switch to the new procedures, now in paragraph (b). Class IIs and IIIs also, of course, remain free to conduct reasonable suspicion tests under their own authority until they are required to implement mandatory reasonable suspicion testing.

Executive Order 12866 and DOT Regulatory Policy and Procedures

FRA has determined that this rule is insignificant under Executive Order 12866 and under the Department of Transportation's Regulatory Policy and Procedures.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by

Government regulations. FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

This rule does 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, FRA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

Paperwork Reduction Act

This rule does not change any previously approved information collection requirements.

List of Subjects in 49 CFR Part 219

Alcohol and drug abuse, Railroad safety, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, FRA amends 49 CFR part 219 as follows:

PART 219—CONTROL OF ALCOHOL AND DRUG USE

1. The authority citation for Part 219 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20111-20113, 20140, 21301 and 21304; Pub. L. 103-272 (July 5, 1994); and 49 CFR 1.49(m).

2. Part 219 is amended by revising § 219.303 to read as follows:

§ 219.303 Alcohol test procedures and safeguards.

(a)(1) Each Class I railroad (including the National Railroad Passenger Corporation) and each railroad providing commuter passenger service shall implement mandatory reasonable suspicion testing according to the procedures listed in paragraph (b) of this section beginning on January 1, 1995.

(2) Each Class II railroad shall implement mandatory reasonable suspicion testing according to the procedures listed in paragraph (b) of this section beginning on July 1, 1995. Prior to that date, a Class II railroad may use the procedures described in paragraphs (c) through (e) of this section.

(3) Each Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall implement mandatory reasonable suspicion testing according to the procedures listed in paragraph (b) of

this section beginning on January 1, 1996. Prior to that date, a Class III railroad may use the procedures described in paragraphs (c) through (e) of this section.

(4) In the case of a railroad commencing operations after January 1, 1996, the railroad shall implement mandatory reasonable suspicion testing not later than the expiration of 60 days from approval by the Administrator of the railroad's random testing programs.

(b) As provided for in subparagraph (a)(1) of this section, the conduct of alcohol testing under this subpart is governed by Subpart H of this part and Part 40 of Subtitle A of this title.

(c) As provided for in subparagraphs (a)(2) and (a)(3) of this section, and except as provided in paragraph (f), the following conditions apply to breath testing authorized by this subpart.

(1) Testing devices shall be selected from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the **Federal Register** from time to time by the National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

(2) Each device shall be properly maintained and shall be calibrated or verified as to correct calibration by use of a breath alcohol simulator (calibrating unit) listed on the NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers (as amended and published) with sufficient frequency to ensure the accuracy of the device (within plus or minus .01 percent), but not less frequently than provided in the manufacturer's instructions.

(3) Tests shall be conducted by a trained and qualified operator. The operator shall have received training on the operational principles of the particular instrument employed and practical experience in the operation of the device and use of the breath alcohol calibrating unit. A copy of the training program shall be filed with FRA in conjunction with the filing required by § 217.11 of this title.

(4) Tests shall be conducted in accordance with procedures specified by the manufacturer of the testing device, consistent with sound technical judgment, and shall include appropriate restrictions on ambient air temperature.

(5) If an initial test is positive, the employee shall be tested again after the expiration of a period of not less than 15 minutes, in order to confirm that the test has properly measured the alcohol content of deep lung air.

(d) Because of the inherent limitations of the instrumentation, any indicated

breath test result of less than .02 percent shall be deemed a negative test.

(e)(1) In any case where a breath test is intended for use in the railroad disciplinary process and the result is positive, the employee shall be given the prompt opportunity to provide a blood sample at an independent medical facility for analysis by a competent independent laboratory. The railroad shall provide the required transportation to facilitate the blood test.

(2) A blood test under this section shall conform to the following standards:

(i) The specimen shall be collected in a medically acceptable manner by a qualified medical professional or technician using a non-ethanol swab and shall be deposited into a single-use sterile vacuum tube containing at least one percent sodium fluoride (and an anticoagulant).

(ii) While the specimen remains in full view of the employee, the specimen shall be clearly labeled with the employee's name and/or a unique identifying number and shall be sealed with a tamperproof seal.

(iii) The sample shall be handled in accordance with chain of custody procedures from the point of collection through analysis and secure storage at the laboratory.

(iv) The sample shall be screened for alcohol only by a method reliable at a detection limit of not higher than .02 percent. Any presumptive positive shall be confirmed by gas chromatography with a suitable internal standard. The screening run shall include at least 10% quality control samples. The confirmation run shall include ethanol standards (including an ethanol standard certified against or traceable to a primary standard), at least one blank specimen, other appropriate volatiles (e.g., isopropanol), and at least one control purchased commercially or provided through an external quality control program. Results declared positive on confirmation shall be consistent with pre-established criteria for retention time of internal and external standards. Blood alcohol concentration shall be reported only at values of .02 percent or greater within the linear portion of the standard curve. Unconfirmed presumptive positive results and values below .02 percent shall be reported as negative. Any quantitations to the third digit shall be rounded downward to two digits (i.e., .238% to .23%).

(v) The remaining portion of any specimen testing positive shall be retained in secure frozen storage for at least one year, and the employee shall

have the right to request a retest of the specimen at a competent independent laboratory within 60 days of the date of the laboratory report.

(vi) Test results shall be reported to the Medical Review Officer who shall review and act upon the results in the same manner provided for drug urine testing in Subpart H of this part, except that fully quantitated results shall be made available to the employer representative.

(3) If the blood test under this section is reported as negative, the breath test shall be deemed negative for all purposes.

(f)(1) Under the circumstances set forth in § 219.301, a railroad may require an employee to participate in a breath alcohol screening test solely for the purpose of determining whether the conduct of a test meeting the criteria of paragraph (a) is indicated. If the screening test is negative within the meaning of paragraph (b), the employee shall not be required to submit to further breath testing under this subpart. If the screening test is positive, no consequence shall attach except that the employee may be removed from covered service for the period necessary to conduct a breath test meeting the criteria of paragraph (a).

(2) Except as provided in paragraph (d)(2)(iii) of this section, the conduct of a screening test under paragraph (d)(1) of this section does not excuse full compliance with paragraph (a) of this section with respect to any breath test procedure which is then undertaken. If a screening test is positive, the following procedures govern:

(i) An initial breath test shall be conducted meeting the criteria of paragraph (a) of this section.

(ii) If that test is positive, a second breath test shall be conducted meeting the criteria of paragraph (a) of this section.

(iii) The second test meeting the criteria of section (a) of this section must be conducted at least 15 minutes after the positive screening test conducted under paragraph (d)(1) of this section. However, since a waiting period of 15 minutes is sufficient to permit the dissipation of any alcohol in the mouth, the requirement of paragraph (a)(5) of this section that there be a period of at least 15 minutes between the two tests meeting the criteria of paragraph (a) of this section does not apply.

3. Section 219.501, as published at 59 FR 7462, February 15, 1994, is amended by adding a new paragraph (a), deleting paragraph (e), redesignating existing paragraphs (a) through (d) as paragraphs (b) through (e), and revising newly

designated paragraphs (b) through (e) as follows:

§ 219.501 Pre-employment tests.

(a)(1) Each Class I railroad (including the National Railroad Passenger Corporation) and each railroad providing commuter passenger service shall implement pre-employment alcohol testing beginning on January 1, 1995.

(2) Each Class II railroad shall implement pre-employment alcohol testing beginning on July 1, 1995.

(3) Each Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall implement pre-employment alcohol testing beginning on January 1, 1996.

(4) In the case of a railroad commencing operations after January 1, 1996, the railroad shall implement pre-employment alcohol testing not later than the expiration of 60 days from approval by the Administrator of the railroad's random testing programs.

(b) Prior to the first time a covered employee performs covered service for a railroad, the employee shall undergo testing for alcohol and drugs. No railroad shall allow a covered employee to perform covered service, unless the employee has been administered an alcohol test with a result indicating an alcohol concentration of less than .04 and has been administered a test for drugs with a result that did not indicate the misuse of controlled substances. This requirement shall apply to final applicants for employment and to employees seeking to transfer for the first time from non-covered service to duties involving covered service. If the test result of a final applicant for pre-employment indicates an alcohol content of .02 or greater, the provisions of paragraph (b) of this section shall apply.

(c) No final applicant for employment tested under the provisions of this part who is found to have an alcohol concentration of .02 or greater but less than .04 shall perform safety-sensitive functions for a railroad, nor shall a railroad permit the applicant to perform safety-sensitive functions, until the applicant's alcohol concentration measures less than .02.

(d) Tests shall be accomplished through breath analysis and analysis of urine samples. The conduct of breath alcohol testing and urine drug testing under this subpart is governed by Subpart H of this part and Part 40 of Subtitle A of this title.

(e) As used in Subpart H with respect to a test required under this subpart, the term *covered employee* includes an applicant for pre-employment testing

only. In the case of an applicant who declines to be tested and withdraws the application for employment, no record shall be maintained of the declination.

Issued in Washington, D.C. on November 17, 1994.

Jolene M. Molitoris,
Administrator, Federal Railroad
Administration.

[FR Doc. 94-28915 Filed 11-23-94; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC04

Endangered and Threatened Wildlife and Plants; Two Puerto Rican Trees Determined To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines *Eugenia haematocarpa* (uvillo) and *Pleodendron macranthum* (chupacallos) to be endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. Both species are small trees endemic to Puerto Rico. They are variously threatened by habitat destruction and modification, forest management practices, hurricane damage, restricted distribution, and possible collection. This final rule implements Federal protection and recovery provisions for these species as provided by the Act.

EFFECTIVE DATE: December 27, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622; and the Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345-3301.

FOR FURTHER INFORMATION CONTACT: Mr. Eugenio Santiago-Valentín at the Caribbean Field Office address (809/851-7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/679-7096).

SUPPLEMENTARY INFORMATION:

Background

Eugenia haematocarpa was first collected in 1939 from Barrio Maizales in the municipality of Naguabo by Leslie R. Holdridge but was named in 1963, 24 years later, by Henri Alain

Liogier (Little et al. 1974; Proctor, pers. comm.). Since then, subsequent collections have been made from the El Verde area of the Luquillo mountains, and it was also recently discovered (in 1990) from a privately-owned property located adjacent to the Carite Commonwealth Forest.

Eugenia haematocarpa is a small tree, 6 meters (20 feet) tall and 12-13 centimeters (4.8-5.2 inches) in diameter. The elliptic leathery leaves are 13-18 centimeters (5.2-7.2 inches) long, 6-8 centimeters (2.4-3.2 inches) wide, almost stalkless, hairless, dull dark green on the upper surface, and light green beneath. Blades contain many slender, slightly raised side veins, forming a prominent network. The flowers are produced on trunks, with slender, nearly equal stalks. Flowers have a four-lobed rounded calyx, 1 millimeter (.04 inch) long; four rounded light pink petals 3 millimeters (.12 inch) long; and numerous stamens. The fruit is a dark red, round berry 2.3-2.9 centimeters (.9-1.1 inch) in diameter, containing a 1.6 centimeter (.6 inch) diameter seed.

Eugenia haematocarpa is known from five localities in the wet montane forests of the Sierra de Luquillo and Sierra de Cayey. Less than 50 plants are known from four populations within the Caribbean National Forest, managed by the U.S. Forest Service. A population of approximately 15 plants occurs on private property adjacent to the Carite Commonwealth Forest in the Sierra de Cayey. The populations within the Caribbean National Forest may be affected by forest management practices. The population on private land may be affected by clearing of the vegetation. All the localities where the species occurs were impacted by Hurricane Hugo in 1989. The fact that the species produces edible fruits could make it an attractive one for collecting.

Pleodendron macranthum was discovered by the French botanist August Plée in 1822-1823 and was first described by Baillon under the genus *Cinnamodendron*. In 1889 vanTieghem placed the species in the current genus, which honors its first collector (Vivaldi et al. 1981.)

Pleodendron macranthum is an evergreen tree reaching 10 meters (33 feet) in height, with leathery, alternate, simple leaves about 8.5-12.5 centimeters (3.5-5.0 inches) long and 4.5-5.0 centimeters (1.7-2 inches) wide. The blades are elliptic with the upper surface dark shiny green and the midvein sunken. The lower surface is pale green with a prominent mid vein and with fine, parallel side veins. The leaf stalks are about 7 millimeters (.25

inch) long. The whitish bisexual flowers are solitary and axillary, 2 centimeters (.8 inch) wide and with a 2.5 centimeter (1 inch) long flower stalk. The cup-shaped calyx is persistent in the fruit, and the corolla contains 12 petals. The aromatic purplish black fruit measures 2 centimeters (.8 inch) in diameter and contains many seeds.

No observation or collection of the species was made for more than 40 years (Vivaldi et al. 1981). The species was rediscovered some years ago, and is at present known from fewer than 50 individuals in 7 localities of the subtropical wet and the subtropical montane wet forests of northern and eastern Puerto Rico. Three localities are within the Caribbean National Forest and four within the Rio Abajo Commonwealth Forest. All the known sites may be impacted by forest management practices. The Caribbean National Forest was severely impacted by Hurricane Hugo in 1989.

Previous Federal Action

Eugenia haematocarpa and *Pleodendron macranthum* are considered to be critical plants by the Natural Heritage Program of the Puerto Rico Department of Natural Resources. They are also considered rare plants by the Center for Plant Conservation (Center for Plant Conservation 1992). *Eugenia haematocarpa* and *Pleodendron macranthum* were recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilippis 1978). *Eugenia haematocarpa* and *Pleodendron macranthum* were included among the plants being considered as endangered or threatened by the Service, as published in the **Federal Register** notice of review dated December 15, 1980 (45 FR 82480); the November 28, 1983 update (48 FR 53680), the revised notice of September 27, 1985 (50 FR 39526), and the February 21, 1990 (55 FR 6184) notice of review. In the 1990 notice, both species were designated as category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened).

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. Beginning in October 1983, and in each October thereafter, the Service made annual findings that listing *Eugenia haematocarpa* and *Pleodendron macranthum* was warranted but precluded by other

pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. A proposed rule to list *Eugenia haematocarpa*, *Pleodendron macranthum* and one other species, published on September 24, 1993 (58 FR 49960), constituted the final 1-year finding in accordance with section 4(b)(3)(B)(ii) of the Act.

The proposal to list *Eugenia haematocarpa* and *Pleodendron macranthum* also included the proposed listing of *Coccoloba rugosa* as threatened. After the proposed rule comment period had closed, the Service received information from a private consulting firm indicating the discovery of additional populations of *Coccoloba rugosa* and questioning the appropriateness of protecting the species under the Act. The Service has not been able to fully verify the new population data and will need additional time to conduct further surveys. This will likely take several months and cannot be completed in time for the usual 12-month deadline established by the Act for completing action on a proposed rule. The Act provides for a 6-month extension if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to a final determination on a proposed listing. The Service finds there is substantial disagreement with regard to the population status of *Coccoloba rugosa* and, therefore, is extending the deadline for a final decision on this species. A notice to extend the deadline is published in the proposed rule section of today's **Federal Register**.

Summary of Comments and Recommendations

In the September 24, 1993, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the "San Juan Star" on October 10, 1993. Three letters of comment were received, one supported the listing, the other two provided information but did not indicate either support or opposition.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information

available, the Service has determined that *Eugenia haematocarpa* and *Pleodendron macranthum* should be classified as endangered species. Procedures found at Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Eugenia haematocarpa* Alain and *Pleodendron macranthum* (Baill.) v. Tiegh are as follows:

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

One of the five known populations of *Eugenia haematocarpa* in the Sierra de Cayey is located on private land and may be impacted by clearing of the vegetation. Although four of the five populations of *Eugenia haematocarpa* and all the known populations of *Pleodendron macranthum* are found on Federal and Commonwealth forest lands, the two species may be affected by forest management practices.

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

Taking for these purposes has not been a documented factor in the decline of these tree species. However, these species may be very attractive for collectors due to their rarity.

C. Disease or Predation

Disease and predation have not been documented as factors in the decline of these species.

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Eugenia haematocarpa* and *Pleodendron macranthum* are not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species are ultimately placed on the Commonwealth list, enhance their protection and possibilities for research funding.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

One of the most important factors affecting the continued survival of these species is their limited number and distribution, which makes the risk of extinction extremely high. Hurricane Hugo in 1989 dramatically affected the

forests of eastern Puerto Rico. Both *E. haematocarpa* and *P. macranthum* are known from such a small number of individuals that loss of genetic variation may be a factor in their future survival.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Eugenia haematocarpa* and *Pleodendron macranthum* as endangered. *Eugenia haematocarpa* and *Pleodendron macranthum* both occur at only a few localities and there are fewer than 75 individuals of each species. Due to their low numbers and limited distribution, any adverse impact is likely to have a serious effect on their survival. The precarious status of *Eugenia haematocarpa* and *Pleodendron macranthum* makes extinction a distinct possibility and warrants their classification as endangered species. The reasons for not proposing critical habitat for these species are discussed below in the "Critical habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exists: (i) The species is threatened by taking or other human activity, and identification of habitat can be expected to increase the degree of such threat to the species, or (ii) Such designation of critical habitat would not be beneficial to the species. Designation of critical habitat for the species would not be prudent for both reasons.

The number of individuals of *Eugenia haematocarpa* and *Pleodendron macranthum* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the *Federal Register* would increase the likelihood of such activities, which are difficult to enforce against and only partially regulated by the Act. Additionally, no Federal activity is anticipated as being likely to affect these species except possibly on U.S. Forest Service lands and lands owned by the U.S. Army and U.S. Navy.

Critical habitat also would not provide additional protection for the species under section 7 of the Act.

Regulations promulgated for the implementation of section 7 provide for both a "jeopardy" standard and a "destruction or adverse modification" of critical habitat standard. In the case of *E. haematocarpa* and *P. macranthum*, the only known suitable habitat is where these species currently occur. Because of the highly limited distribution of the species, any Federal action that would destroy or have any significant adverse effect on their habitat would likely result in a jeopardy biological opinion under section 7. Under these conditions, no additional benefits would accrue from designation of critical habitat that would not be available through listing alone. The Service believes that any Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting these species' habitats. Should Federal involvement occur, habitat protection will be addressed through the section 7 consultation process, utilizing the jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed

species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for these three species, as discussed above. Federal involvement is anticipated for populations of *Eugenia haematocarpa* and *Pleodendron macranthum* located in the Caribbean National Forest.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened or endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or to remove and reduce the species to possession from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Public Law 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and the Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63, also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. It is anticipated that few permits for these species will ever be sought or issued, since the species are not known to be in cultivation for commercial trade and are uncommon in the wild.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effect of the listing on proposed or ongoing activities. Of the seven known localities of *Pleodendron macranthum* all are located on public lands and of the five known localities of *Eugenia haematocarpa* all but one are located on public lands. Collection, damage or destruction of these species on Federal

lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in violation of Commonwealth law. Section 15.01(b) of the Commonwealth "Regulation to Govern the Management of Threatened and Endangered Species in the Commonwealth of Puerto Rico," states: "It is illegal to take, cut, mutilate, uproot, burn or excavate any endangered plant species or part thereof within the jurisdiction of the Commonwealth of Puerto Rico." The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Caribbean Office (see ADDRESSES section). Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Atlanta, Georgia 30345-3301 (phone 404/679-7096, facsimile 404/679-7081).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R. A. DeFilipps. 1978. Endangered and Threatened Plants of the United States. Smithsonian Institution and World Wildlife Fund, Inc., Washington D.C. xv + 403 pp.
 Center for Plant Conservation. 1992. Report on the Rare Plants of Puerto Rico. Missouri Botanical Garden, St. Louis, Missouri.
 Little, E.L., R.O. Woodbury and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands. Second volume. U.S. Department of Agriculture handbook no. 449. Washington, D.C. 1024 pp.
 Vivaldi, J.L., and R.O. Woodbury. 1981. Status Report on *Pleodendron macranthum* (Baill.) van Tieghem. Unpublished report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 38 pp.

Author

The primary author of this final rule is Mr. Eugenio Santiago-Valentin, Caribbean Field Office, U. S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. (809/851-7297).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.
 * * * * *
 (h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
<i>Eugenia haematocarpa</i>	Uvillo	U.S.A. (PR)	Myrtaceae	E	564	NA	NA
<i>Pleodendron macranthum</i>	Chupacallos	U.S.A. (PR)	Canellaceae	E	564	NA	NA

Dated: September 14, 1994.
Mollie H. Beattie,
 Director, Fish and Wildlife Service.
 [FR Doc. 94-29069 Filed 11-23-94; 8:45 am]
 BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 625
 Docket No. [940262-4321; I.D. 111894B]
Summer Flounder Fishery
AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Notification of commercial quota increase and commercial quota availability.

SUMMARY: NMFS issues this document to announce an increase in the commercial quota for the 1994 summer flounder fishery. The intent of this document is to comply with an Opinion and Order issued by District Court Judge Robert Doumar, directing NMFS to reset the quota equal to 19.05 million lb (8.6 million kg). This document advises the public that a quota adjustment has been made and informs the public of revisions to state quotas necessitated by this adjustment. As a result of this action, vessels issued a Federal fisheries permit for the summer flounder fishery may resume landing summer flounder

in the State of Delaware until the 1994 quota is harvested.

EFFECTIVE DATE: November 18, 1994.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, 508-281-9101.

SUPPLEMENTARY INFORMATION:

Regulations implementing the Summer Flounder Fishery Management Plan (FMP) are found at 50 CFR part 625. The regulations require NMFS annually to establish and apportion among the coastal states from Maine to North Carolina a commercial quota for summer flounder. The process required to set the annual commercial quota and the percent allocated to each state is described in 50 CFR 625.20. The commercial summer flounder quota for the 1994 calendar year, adopted pursuant to these regulations, was initially set to equal 16,005,560 lb (7.3

million kg) (59 FR 10586, March 7, 1994).

In a decision filed November 4, 1994, in the Norfolk Division of the United States District Court for the Eastern District of Virginia, Judge Robert Doumar ordered NMFS to increase the commercial quota to 19.05 million lb (8.6 million kg).

Section 625.20(d)(1) of 50 CFR requires that the annual quota (as ordered increased) be distributed to the coastal states according to specified percentages. Section 625.20(d)(2) requires that any state which had landings in excess of the state's quota in 1993 have its 1994 allocation adjusted by deducting the 1993 excess. This adjustment was made to the initial 1994 quotas in a document published in the *Federal Register* on May 25, 1994 (59

FR 26971). These overages are likewise deducted from the Court-ordered quota in Table 1 below.

Section 625.20(f) allows a state to transfer all or a portion of its commercial quota. The States of Connecticut, Maryland, North Carolina, and the Commonwealth of Virginia made transfers to the State of Delaware, which were effective June 1, 1994 (59 FR 29207, June 6, 1994). The State of New Jersey made a transfer to the State of Connecticut, which was effective September 29, 1994 (59 FR 50512, October 4, 1994). These transfers are reflected in Table 1 below.

Table 1 shows the allocation to each state of the court-ordered new quota, the 1993 overage amounts to be deducted, the quota transfers made by the states, and the resulting final state quotas.

TABLE 1.—ADJUSTED 1994 COMMERCIAL QUOTA FOR THE SUMMER FLOUNDER FISHERY

States	Court-ordered 1994 quota (lbs)	1993 overage deducted (lbs)	1994 transfers (lbs)	Adjusted 1994 quota	
				(lbs)	(kg)
Maine	9,060	149	0	8,911	4,042
New Hampshire	88	0	0	88	40
Massachusetts	1,299,297	60,459	0	1,238,838	561,937
Rhode Island	2,987,608	0	0	2,987,608	1,355,179
Connecticut	429,974	0	+22,989	452,963	205,464
New York	1,456,751	0	0	1,456,751	660,782
New Jersey	3,186,110	143,098	-23,085	3,019,927	1,369,839
Delaware	3,389	4,206	+6,040	5,223	2,369
Maryland	388,448	2,252	-1,000	385,196	174,725
Virginia	4,060,843	169,513	-2,162	3,889,168	1,764,127
North Carolina	5,228,432	23,085	-2,782	5,202,565	2,359,883

As a result of this quota adjustment, the previous closure document effective March 30, 1994 (59 FR 15863, April 5, 1994) is rescinded and vessels may again land summer flounder in Delaware, until the available 1994 quota is harvested.

The Mid-Atlantic Fishery Management Council has submitted to NMFS a recommended summer flounder coastwide quota for 1995 of 19.4 million pounds (8.8 million kg). This recommendation did not account for the possible increase in mortality that could occur from this upward adjustment of the quota in response to the Court Order. Consequently, a re-examination of the factors in section 625.20 that must be considered in setting the annual quota will have to be undertaken to assess what quota level in 1995 will assure attainment of the fishing mortality reduction goal of 0.53. If the adjusted quota in 1994 is completely harvested, the current recommended quota for 1995 will have to be adjusted downward.

Classification

This action is required by 50 CFR part 625 and is exempt from review under E.O. 12866.

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

Dated: November 18, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94-28954 Filed 11-18-94; 3:56 pm]

BILLING CODE 3510-22-P

50 CFR Part 675

[Docket No. 931100-4043; I.D. 111894A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for yellowfin sole by operators of vessels using trawl gear in the Bering

Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1994 Pacific halibut bycatch mortality allowance specified for the trawl yellowfin sole fishery.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), November 19, 1994, until 12 noon, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

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

The 1994 Pacific halibut bycatch mortality allowance for the trawl yellowfin sole fishery, which is defined at § 675.21(b)(1)(iii)(B)(1), was

established as 592 metric tons by the final 1994 initial specifications of groundfish (59 FR 7656, February 16, 1994). The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the 1994 Pacific halibut bycatch mortality allowance for the trawl yellowfin sole fishery has been reached. Therefore, NMFS is closing directed fishing for yellowfin sole by operators of vessels

using trawl gear in the BSAI from 12 noon, A.l.t., November 19, 1994, until 12 noon, A.l.t., December 31, 1994.

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

Classification

This action is taken under 50 CFR 675.21 and is exempt from review under E.O. 12866.

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

Dated: November 18, 1994.

Fred Bilik,

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

[FR Doc. 94-28945 Filed 11-18-94; 3:56 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 59, No. 226

Friday, November 25, 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

Agricultural Marketing Service

7 CFR Part 1005

[DA-95-05]

Milk in the Carolina Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend for a cooperative association the diversion limitation of the Carolina Federal milk marketing order (Order 5) for the months of January and February 1995. The proposed suspension was requested by Carolina Virginia Milk Producers Association (Carolina Virginia). The cooperative association contends the action is necessary to maintain orderly marketing conditions and ensure that the milk of its member producers will continue to be pooled during these months.

DATES: Comments are due no later than December 2, 1994.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small

entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Carolina marketing area is being considered for the period of January 1 through February 28, 1995:

In § 1005.13(d)(2), the words "and January and February".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of

this notice in the Federal Register. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The Carolina order requires that during each of the months of July through November, January, and February, the total quantity of milk diverted to nonpool plants by a cooperative association not exceed 25 percent of the producer milk that such cooperative caused to be delivered to or diverted from such pool plants. The proposed action would suspend the 25 percent diversion limitation for a cooperative association for the months of January and February. It would allow a cooperative association to divert an unlimited quantity of each member producer's milk to nonpool plants if at least six days' production was delivered to a pool plant during the month.

Carolina Virginia Milk Producers Association (Carolina Virginia), a cooperative association with member producers pooled on the Alabama (Order 93), Georgia (Order 7), Tennessee Valley (Order 11), and Carolina (Order 5) Federal milk marketing orders, indicates that effective August 1, 1994, it lost Class I sales with a handler regulated under Order 7. The cooperative then gained Class I sales with a handler regulated under Order 5 effective October 1, 1994, and shifted the producer milk supply formerly associated with the Order 7 handler to Order 5. This realignment resulted in additional producer milk delivered to Carolina handlers during the summer and fall months of 1994.

The cooperative states that it is the balancing agent for its Class I customers under Order 5 for their weekly and seasonal milk supply. It asserts that the proposed suspension is necessary to accommodate pooling the anticipated production of its member producers during these months.

Accordingly, it may be appropriate to suspend the aforesaid provisions from January 1 through February 28, 1995.

List of Subjects in 7 CFR Part 1005

Milk marketing orders.

The authority citation for 7 CFR Part 1005 continues to read as follows:

Authority: Secs. 1-19, 48 Stat 31, as amended; 7 U.S.C. 601-674.

Dated: November 21, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94-29092 Filed 11-23-94; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Parts 1005, 1007, 1011, and 1046

[DA-95-06]

Milk in the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville Marketing Areas; Proposed Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This document invites written comments on a proposal that would extend a suspension of certain provisions of the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk orders from March 1, 1995, through February 28, 1996, or until the conclusion of an amendatory proceeding that has been scheduled to deal with these matters.

DATES: Comments are due no later than December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. This action would lessen the regulatory burden on small entities by removing pricing disparities that are causing or could cause financial hardship for certain regulated plants.

The Department is issuing this proposed action in conformance with Executive Order 12866.

This proposed suspension has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect.

This action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions 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 from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provisions of the orders regulating the handling of milk in the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville marketing areas is being considered for a 12-month period beginning March 1, 1995:

1. In § 1005.7(d)(3) of the Carolina order, the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area";
2. In § 1007.7(e)(3) of the Georgia order, the words ", except as provided in paragraph (e)(4) of this section,";
3. In § 1007.7 of the Georgia order, paragraph (e)(4);
4. In § 1011.7(d)(3) of the Tennessee Valley order, the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area"; and
5. In § 1046.2 of the Louisville-Lexington-Evansville order, the word "Pulaski".

All persons who desire to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 30th day after publication of this notice in the *Federal Register*.

The comments that are sent will be made available for public inspection in

the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

This proposed suspension would extend an existing suspension that has been in effect since March 1, 1994. This suspension allows a distributing plant at Kingsport, Tennessee, that is located within the Tennessee Valley marketing area and that meets all of the pooling standards of the Tennessee Valley order to be regulated under that order rather than the Carolina order despite the plant having greater sales in the Carolina marketing area. It also allows a distributing plant located at Somerset, Kentucky, that has been regulated under the Tennessee Valley order to remain regulated there even if it has greater sales in the Louisville-Lexington-Evansville (Order 46) marketing area. In addition, the suspension allows a supply plant at Springfield, Kentucky, that has been supplying the Somerset plant to remain pooled under the Tennessee Valley order without having to make uneconomic shipments of milk that it contends would be necessary to remain pooled if the Southern Belle plant were regulated under Order 46.

The problems prompting the existing suspension of these provisions were thoroughly explained in a suspension order issued on March 28, 1994 (published April 1, 1994 [59 FR 15315]). In that document, it was noted that "orderly marketing will be best preserved by adopting the proposed suspension, for a 12-month period only, to allow the industry time to develop proposals for a hearing to be held before the suspension period expires." [emphasis added]

Due to significant changes that have occurred in these markets within the past year, the Department was delayed in scheduling the promised proceeding to hear industry proposals for resolving the problems which lead to the suspension order. Although a hearing has now been scheduled for January 4, 1995, to hear these proposals, this will not allow sufficient time to evaluate the record and to extend the suspension, if found to be warranted, by the time the current suspension expires on February 28, 1995.

Advised of these facts, both Southern Belle Dairy Company and Land-O-Sun Dairies, Inc., who were proponents of the existing suspension, submitted requests to extend the current suspension until the amendatory proceeding was concluded. This notice is in response to those requests.

Accordingly, it may be appropriate to suspend the aforesaid provisions from March 1, 1995, through February 28,

1996, or until such earlier time as an order amending the aforesaid orders may be issued on the basis of the hearing that has been scheduled for January 4, 1995.

List of Subjects in 7 CFR Parts 1005, 1007, 1011, and 1046

Milk marketing orders.

The authority citation for 7 CFR Parts 1005, 1007, 1011, and 1046 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Dated: November 21, 1994.

Lon Hatamiya,
Administrator.

[FR Doc. 94-29090 Filed 11-23-94; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1032

[DA-95-04]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend a portion of the supply plant shipping requirement of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the months of December 1994 and January 1995. The proposal was submitted by Prairie Farms Dairy, Inc., which contends the suspension is necessary to ensure that producers historically associated with Order 32 will continue to have their milk pooled under the order without having to move milk uneconomically.

DATES: Comments are due no later than December 2, 1994.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C.

605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area is being considered for the period of December 1, 1994, through January 31, 1995:

In § 1032.7(b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation

Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would suspend a portion of the supply plant shipping requirement for a cooperative association that operates a supply plant under Order 32. It would permit a supply plant operated by a cooperative association to qualify as a pool plant if the cooperative shipped 25 percent of the plant's total producer receipts to pool distributing plants during the month and milk from the plant was delivered to a pool distributing plant during each of the immediately preceding months of September through August. It would remove a requirement that the cooperative must have shipped 75 percent of its milk to pool distributing plants during the September through August period.

According to Prairie Farms, a dairy farmer cooperative based in Carlinville, Illinois, it owns and operates six fluid milk processing plants and five manufacturing plants. Prairie Farms states that four of the six fluid milk processing plants, as well as a cultured product/supply plant, are regulated under the Southern Illinois-Eastern Missouri Federal milk order. It states that these plants are supplied by its own member dairy farmers and balanced by four cooperative associations, two of which operate supply plants.

Prairie Farms indicates that its producer milk for recent months at its plants is about 12 to 14 percent higher than the same period in 1993 from approximately the same number of producers. It states that the increased production from its members—primarily due to improved growing conditions that resulted in an abundant supply of high quality feed—has caused it to reduce purchases from other cooperative associations. As a result, it states that two pool supply plants operated by the cooperative associations barely met the shipping requirements for the month of October. Prairie Farms anticipates that a similar situation will occur in November and expects the problem to worsen in the months of December 1994 and January 1995.

Prairie Farms states that the proposed suspension would allow Order 32 supply plants to serve the market, but at a level that should reduce or eliminate the need to make expensive and inefficient movements of milk to meet the supply plant shipping requirement. Accordingly, it may be appropriate to suspend the aforesaid provisions from December 1, 1994, through January 31, 1995.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

The authority citation for 7 CFR Part 1032 continues to read as follows:

Authority: Secs. 1-19, 48 Stat 31, as amended; 7 U.S.C. 601-674.

Dated: November 21, 1994.

Lon Hatamiya,
Administrator.

[FR Doc. 94-29089 Filed 11-23-94; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Parts 1005, 1011, and 1046

[Docket No. AO-388-A8, et al.; DA-94-12]

Milk in the Carolina, Tennessee Valley, and Louisville-Lexington-Evansville Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	AO Nos.
1005	Carolina	AO-388-A8
1011	Tennessee Valley.	AO-251-A39
1046	Louisville-Lexington-Evansville.	AO-123-A66

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing is being held in response to industry requests to amend the Carolina, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk marketing orders. Several proposals would amend the pooling standards of the Tennessee Valley and Carolina orders; one proposal would change the marketing areas of the Tennessee Valley and Louisville-Lexington-Evansville orders; and another proposal would change locational pricing under the Carolina order.

DATES: The hearing will convene at 9:00 a.m. on January 4, 1995.

ADDRESSES: The hearing will be held at the Radisson Plaza Hotel, 101 South Tryon Street, Charlotte, NC 28280 (Tel: (704) 377-0400).

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Radisson Plaza Hotel, 101 South Tryon Street, Charlotte, NC 28280 (Tel: (704) 377-0400), beginning at 9:00 a.m., on January 4, 1995, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Carolina, Tennessee Valley, and Louisville-Lexington-Evansville marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the

proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(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 the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its 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.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 4 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1005, 1011, and 1046

Milk marketing orders.

The authority citation for 7 CFR Parts 1005, 1011, and 1046 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Land-O-Sun Dairies, Inc.

Proposal No. 1: In § 1011.7, change the word "(d)" to "(e)" in the introductory text, redesignate paragraph (d) as paragraph (e), and add a new paragraph (d) and revise newly designated paragraph (e)(3) to read as follows:

§ 1011.7 Pool Plant.

* * * * *

(d) A plant located within the marketing area (other than a producer-handler plant or a governmental agency plant) that meets the qualifications described in paragraph (a) of this section regardless of its quantity of route disposition in any other Federal order marketing area.

(e) * * *

(3) A plant which is located outside the marketing area, which meets the pooling requirements of another Federal order, and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area;

* * * * *

Proposal No. 2: In § 1005.7, redesignate paragraph (d)(4) as (d)(5) and add a new paragraph (d)(4) to read as follows:

§ 1005.7 Pool plant.

* * * * *

(d) * * *

(4) A distributing plant located within the marketing area of another Federal order which is a fully regulated distributing plant under such order; and

* * * * *

Proposed by Armour Food Ingredients

Proposal No. 3: Amend § 1011.7(b) so that a supply plant which meets the shipping requirements during the immediately preceding months of August through February would be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted regulatory agency or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and for each subsequent month through July during which it would not otherwise qualify as a pool plant.

Proposed by Mid-America Dairymen, Inc.

Proposal No. 4: In § 1005.7, change the word "(d)" to "(e)" in the introductory text, redesignate paragraph (d) as paragraph (e), and add a new paragraph (d) and revise newly designated paragraph (e)(3) to read as follows:

§ 1005.7 Pool Plant.

* * * * *

(d) A plant located within the marketing area (other than a producer-handler plant or a governmental agency plant) that meets the qualifications described in paragraph (a) of this section regardless of its quantity of route disposition in any other Federal order marketing area.

(e) * * *

(3) A plant which is located outside the marketing area, which meets the pooling requirements of another Federal order, and from which there is a greater

quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area;

* * * * *

Proposal No. 5: In § 1011.7, redesignate paragraph (d)(4) as paragraph (d)(5), and add a new paragraph (d)(4) to read as follows:

§ 1011.7 Pool plant.

* * * * *

(d) * * *

(4) A distributing plant located within the marketing area of another Federal order which is a fully regulated plant under such order; and

* * * * *

Proposed by Southern Belle Dairy Company, Inc.

Proposal No. 6: Amend the marketing area definition of the Tennessee Valley order (§ 1011.2) by adding the following unregulated Kentucky counties to the marketing area: Clay, Jackson, Laurel, McCreary, Owsley, and Rockcastle. Also, remove Pulaski County from the Order 46 (Louisville-Lexington-Evansville) marketing area and add it to the Order 11 marketing area.

Proposal No. 7: Revise § 1011.7(d)(3) to read as follows:

§ 1011.7 Pool plant.

* * * * *

(d) * * *

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area except that if such plant is located in the marketing area of this order it shall be subject to all the provisions of this order; and

* * * * *

Proposed by Milkco, Inc.

Proposal No. 8: In § 1005.7(a)(1), change the in-area route disposition requirement from 15 percent to 10 percent.

Proposed by Maryland & Virginia Milk Producers Cooperative Association, Inc.

Proposal No. 9: Revise § 1005.7(a)(1) to read as follows:

§ 1005.7 Pool plant.

* * * * *

(a) * * *

(1) Route disposition, except filled milk, in the marketing area not less than 15 percent of its dairy farmer receipts,

except filled milk, during the month; and

* * * * *

Proposal No. 10: In § 1005.53, redesignate paragraph (a)(6) as paragraph (a)(7) and add a new paragraph (a)(6) to read as follows:

§ 1005.53 Plant location adjustments for handlers.

(a) * * *

(6) For a plant located within the Middle Atlantic Federal order marketing area and in the State of Maryland, the adjustment shall be zero.

* * * * *

Proposal No. 11: In §§ 1005.90, 1005.91, and 1005.93(b), delete June as a base-paying month by substituting the word "May" for "June" wherever the word "June" appears.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 12: Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture, Office of the Administrator, Agricultural Marketing Service, Office of the General Counsel, Dairy Division, Agricultural Marketing Service (Washington office) and the Offices of all Market Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: November 21, 1994.

Lon Hatamiya,
Administrator.

[FR Doc. 94-29091 Filed 11-23-94; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN Number 1510-AA39

Federal Government Participation in the Automated Clearing House; Notice of Extension of Time for Comments

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking; Extension of Time for Comments.

SUMMARY: On September 30, 1994, the Financial Management Service issued a notice of proposed rulemaking that proposes to revise the regulations defining the responsibilities and liabilities of the Federal Government, Federal Reserve Banks, financial institutions, Receivers, and Originators doing business with the Government through the Automated Clearing House (ACH) system. (59 FR 50112). The revisions are intended to provide a regulatory basis for broader use of the ACH system to meet the future payment, collection and information flow needs of the Government. The revisions also are intended to bring Government regulations more in line with financial industry rules so as to eliminate, as much as possible, the need for the financial industry to operate under two sets of rules for processing ACH transactions. The date for filing comments is being extended at the request of various interested commenters.

DATES: The date for filing comments is extended to and including January 3, 1995.

ADDRESSES: Comments may be mailed to the Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, Liberty Center, 401 14th Street, S.W., Washington, DC 20227. Attention: Berenice Reed. Please note that the room number has been changed, and a name has been added.

FOR FURTHER INFORMATION CONTACT: Berenice Reed (202) 874-6799 (Program Analyst); John Galligan (202) 874-6657 (Director, Cash Management Policy and Planning Division); or Margaret Roy (Principal Attorney) (202) 874-6680.

Please note the additional contact person, and new telephone number for John Galligan.

Dated: November 16, 1994.

Michael T. Smokovich,

Acting Commissioner.

[FR Doc. 94-28855 Filed 11-23-94; 8:45 am]

BILLING CODE 4810-35-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AG99

Claims Based on Exposure to Ionizing Radiation (Lymphomas Other Than Hodgkin's Disease and Cancer of the Rectum)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs adjudication regulations concerning diseases presumed to be the result of exposure to ionizing radiation. This amendment is necessary to implement a decision by the Secretary of Veterans Affairs that lymphomas other than Hodgkin's disease and cancer of the rectum are "radiogenic." The intended effect of this action is to add these conditions to the list of radiogenic diseases for service-connected compensation purposes.

DATES: Comments must be received on or before January 24, 1995.

ADDRESSES: Mail written comments concerning these proposed regulations to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420; or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001. Comments should indicate that they are submitted in response to "RIN 2900-AG99." All written comments will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (Except holidays).

FOR FURTHER INFORMATION CONTACT: Lorna Weston, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 273-7210.

SUPPLEMENTARY INFORMATION: Under 38 CFR 1.17(c), when the Secretary determines that a significant statistical

association exists between exposure to ionizing radiation and any disease, 38 CFR 3.311(b)(2) is amended to provide guidelines for the establishment of service-connection for that disease. Such a determination is made after receiving the advice of the Veterans Advisory Committee on Environmental Hazards (VACEH) based on its evaluation of scientific and medical studies.

On October 28-29, 1993, the VACEH held a public meeting in Washington, DC, and reviewed 53 medical and scientific studies having to do with radiation exposure and subsequent development of disease. Based on this review, VACEH recommended that VA add lymphomas other than Hodgkin's disease and rectal cancer to the list of diseases recognized by VA as being radiogenic.

VA has previously recognized an association between radiation exposure and the development of multiple myeloma as well as all forms of leukemia except chronic lymphocytic leukemia. In its report, VACEH noted the close histologic relationship between acute lymphocytic leukemia and some of the lymphomas. Further, the report of the National Research Council's Committee on the Biological Effects of Ionizing Radiation (BEIR), entitled "Health Effects of Exposure to Ionizing Radiation: BEIR V," noted that both malignant myeloma and the non-Hodgkin's lymphomas are malignancies of the B lymphocytes which have been observed in humans to increase in frequency after irradiation. Based on these considerations, the Secretary has determined that an association exists between radiation exposure and subsequent development of lymphomas other than Hodgkin's disease.

VA has also previously recognized both colon cancer and skin cancer as radiogenic diseases. While some studies have addressed colon cancer and rectal cancer together, the BEIR V report addressed them separately. VACEH also considered them as separate entities, noting that the rectal tissue of ectodermal origin is not pathologically part of the colon. While the BEIR V report gave conflicting conclusions about rectal cancer, the report of the United Nations Scientific Committee on the Effects of Atomic Radiation recognized an association between radiation exposure and rectal cancer. VACEH therefore recommended that cancer of the rectum be added to the radiogenic disease list. After review of these studies, the Secretary has determined that an association exists between radiation exposure and rectal cancer.

We propose to amend 38 CFR 3.311(b) (2) to implement the Secretary's decision effective the date of publication of the final rule.

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

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

List of Subjects in 38 CFR Part 3

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

Approved: November 15, 1994.

Jesse Brown,
Secretary of Veterans Affairs.

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

PART 3—ADJUDICATION

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

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

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

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

3. In § 3.311(b)(2), add paragraphs (xxi) and (xxii) to read as follows:

§ 3.311 Claims based on exposure to ionizing radiation.

* * * * *

(b) * * *

(2) * * *

(xxi) Cancer of the rectum; and

(xxii) Lymphomas other than Hodgkin's disease.

* * * * *

[FR Doc. 94-29072 Filed 11-23-94; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IL80-2-6784; FRL-5113-4]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve a State Implementation Plan (SIP) request to redesignate the Jersey County, Illinois ozone nonattainment area to attainment. The USEPA is also approving the accompanying maintenance plan as an SIP revision. The redesignation request and maintenance plan were submitted by the Illinois Environmental Protection Agency (IEPA) on November 12, 1993. The State has met the requirements for redesignation contained in the Clean Air Act (Act), as amended in 1990. The redesignation request is based on ambient monitoring data that show no violations for the ozone National Ambient Air Quality Standard (NAAQS) during the three-year period from 1990 through 1992.

DATES: Comments on this SIP revision request and on USEPA's proposed rulemaking action must be received by December 27, 1994.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, 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.

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: On November 12, 1993, the IEPA submitted a redesignation and maintenance plan for Jersey County as a requested revision to the Illinois State Implementation Plan (SIP). The IEPA has requested that Jersey County be redesignated to attainment for ozone.

On November 6, 1991 (56 FR 56694), the USEPA formally designated Jersey County as a marginal ozone

nonattainment area. This classification and designation was based on a monitored violation of the ozone National Ambient Air Quality Standard (NAAQS) in Jersey County in 1988.

Jersey County is a rural county located approximately 25 miles north of St. Louis, Missouri. Based on the 1990 census, the population of Jersey County is 20,539, with the largest urban population being that of Jerseyville, with a population of approximately 8,000.

I. USEPA Redesignation Policy

The Act's requirements for redesignation to attainment are contained in section 107(d)(3)(E). These requirements and other USEPA redesignation requirements are discussed in a September 4, 1992, memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions. As outlined in this memorandum, section 107(d)(3)(E) requires that the following conditions be met for redesignation to attainment:

1. The USEPA must determine that the area subject to the redesignation request has attained the NAAQS;
2. The USEPA must have fully approved the applicable SIP for the subject area under section 110(k) of the Act;
3. The USEPA must determine that the improvement in air quality in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable SIP, Federal air pollution control regulations, and other federally enforceable emission reductions;
4. The USEPA must have fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act; and
5. The State must have met all requirements applicable to the area under section 110 and part D of the Act.

To demonstrate that the area has attained the ozone NAAQS, the State must show that the ozone data in the area do not exhibit violation of the NAAQS at any monitoring site in the area during the most recent three years of monitoring at the sites. In accordance with 40 CFR part 50.9, the annual average number of expected exceedances of the ozone standard (0.12 parts per million [ppm], one-hour averaged) at any monitor cannot exceed 1.0 during the three year period. The data used in this demonstration must be quality assured, in accordance with 40 CFR part 58, and collected in accordance with 40 CFR part 50, appendix H. The data should be

recorded in USEPA's Aerometric Information Retrieval System (AIRS).

The SIP for the area must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply to the area. These requirements include new requirements added by the 1990 amendments to the Clean Air Act. The State must meet all requirements of section 110 and part D of the Act that were applicable prior to the submittal of the complete, finally adopted redesignation request. (It should be noted that, based on section 175A of the Act, other requirements of part D of the Act remain in effect until the USEPA approves the maintenance plan and the redesignation to attainment. If the USEPA disapproves the request to redesignate an area to attainment, these requirements remain in effect with no delay.) A SIP which meets the pre-redesignation request submittal requirements must be fully approved by the USEPA prior to USEPA's approval of the redesignation of the area to attainment of the NAAQS. The requirements of title I of the Act, which includes section 110 and part D of the Act, are discussed in the April 16, 1992, *General Preamble to Title I* (57 FR 13498).

The State must be able to reasonably attribute the improvements in air quality to permanent and enforceable emission reductions. Attainment resulting from temporary emission reductions or from temporary favorable (not conducive to high ozone concentrations) meteorology would not qualify as a permanent air quality improvement. The State should demonstrate that the emission reductions from a past high ozone period (generally the year or period for which the area's ozone classification design value was determined, 1988 for Jersey County) to the period of attainment were due to the implementation of permanent and enforceable emission control measures and were sufficient to explain the attainment of the ozone NAAQS.

Prior to the redesignation of an area to attainment, the USEPA must fully approve a maintenance plan (as a SIP revision) which meets the requirements of section 175A of the Act. The maintenance plan must provide for maintenance of the NAAQS attainment in the area for at least 10 years after the USEPA approval of the redesignation request. The maintenance plan must contain additional emission control measures as necessary to assure maintenance of the NAAQS (generally this means maintaining the precursor emissions at or below the attainment year levels). The Act also requires

(section 175A(b)) a second SIP revision 8 years after an area is redesignated to attainment to assure maintenance of the NAAQS for an additional 10 years beyond the first 10 year maintenance period.

The maintenance plan must contain such contingency measures as the USEPA deems necessary to ensure prompt correction of any violation of the NAAQS occurring after the area is redesignated to attainment or exceedance of other triggering levels, such as emissions exceeding attainment levels (this could be caused by emission increases not anticipated in the maintenance plan).

At a minimum, the maintenance plan should contain the following elements:

1. Attainment Inventory

The State must develop an emissions inventory for the initial period of attainment to identify the level of emissions which is associated with attainment of the NAAQS. This emissions inventory must be consistent with USEPA's most recent guidance on preparation and documentation of emission inventories. The emissions inventory should be based on actual, typical summer weekday emissions of ozone precursors (Volatile Organic Compounds [VOC], Oxides of Nitrogen [NO_x], and Carbon Monoxide [CO]).

2. Maintenance Demonstration

A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of the ozone precursors will not exceed the levels of the emissions in the attainment inventory or by modeling to demonstrate that the future mix of sources and emission rates will not cause a violation of the NAAQS. The maintenance plan should be based on the same type and level of modeling used to demonstrate attainment of the NAAQS in the SIP. Regardless of which approach is used, the State must project the emissions for the 10 year period following the anticipated time of the USEPA approval of the redesignation request (the State should assume that the USEPA will take two years to complete the rulemaking on the redesignation request). The projected emissions must reflect the expected actual emissions based on enforceable emission rates and typical source activity rates, such as production rates, adjusted for expected source growth. Projected emission reductions must reflect the impacts of permanent, enforceable emission control measures. The assumptions of emission reductions and source growth and techniques used

to project the emissions must be clearly documented.

3. Monitoring Network

The maintenance plan must contain provisions for the continued operation of ozone air quality monitors in the area to be redesignated. This is needed to provide verification of the maintenance of the NAAQS attainment, and is also needed to provide triggering data for the activation of contingency measures in the event of a future violation or exceedance of the NAAQS (the State may choose to activate some contingency measures when the NAAQS is simply exceeded but not yet violated to prevent future NAAQS violations).

4. Verification of Continued Attainment

The State must assure that it has the legal authority to implement and enforce all measures necessary to attain and maintain the NAAQS. In addition, the maintenance plan must indicate how the State will track the progress and success of the maintenance plan. This includes tracking air quality levels and emissions.

5. Contingency Plan

Section 175A of the amended Act requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after the redesignation of an area to attainment. For the purposes of section 175A, a State is not required to fully adopt contingency measures that will take effect without further action by the State. The contingency plan, however, is considered to be an enforceable part of the SIP and must ensure that the contingency measures will be adopted and implemented expeditiously after they are triggered. The plan must clearly identify the measures that will be considered for adoption, a schedule and procedure for their adoption and implementation, and a specific time limit for action by the State. The plan must also identify the specific indicators or triggers that will be used to determine when the contingency measures will be required.

II. Summary of the Illinois Redesignation Submittal

Summarized below are the contents of the Illinois redesignation request and maintenance plan.

A. Monitored Attainment of the NAAQS

During the period of 1990 through 1992 (the three year period covered by the redesignation request), two exceedances of the ozone standard,

0.127 ppm and 0.125 ppm, were monitored in Jersey County, with both exceedances recorded in 1990. The expected ozone standard exceedance rate for the 1990-1992 period was 0.67 exceedance per year. This is in contrast to seven ozone standard exceedances, with a peak ozone concentration of 0.128 ppm, monitored in 1988, when ozone monitoring was initiated in Jersey County. The IEPA has quality assured the 1990-1992 ozone data for Jersey County and has entered these data into AIRS.

As a check on the continued attainment of the NAAQS in Jersey County, one may also consider the 1993 peak ozone concentrations (not addressed in the Illinois redesignation request, but registered in AIRS). Two exceedances of the ozone standard, 0.135 ppm and 0.127 ppm, were monitored in Jersey County in 1993. The 1991 through 1993 data continue to show attainment of the ozone NAAQS, with an annual average expected exceedance rate of 0.67.

These data show that attainment of the ozone NAAQS has been monitored in Jersey County based on the most recent quality assured air quality data available.

B. Meeting Applicable Requirements of Section 110 and Part D

Until 1991 and prior to the 1990 amendment of the Act, Jersey County had been designated as attainment for ozone. The only ozone precursor emission control regulations covering Jersey County were statewide Reasonably Available Control Technology (RACT) regulations and Prevention of Significant Deterioration (PSD) regulations covering the growth of new or existing sources. The USEPA has promulgated PSD regulations for Illinois, which have been delegated to the State for implementation. The USEPA has previously approved Illinois' RACT regulations covering Jersey County.

The IEPA certifies that all RACT controls required in Jersey County have been implemented and will remain in effect after the redesignation of the County to attainment. These rules will remain in effect until the State demonstrates to the USEPA's satisfaction that the ozone standard can be maintained without one or more of the controls.

Title 40 CFR part 52, subpart O, section 52.722, evidences that the Illinois SIP was approved under section 110 of the Act and that the USEPA found that the SIP satisfied all part D, title I (as amended in 1977), requirements. The 1990 Act

amendments, however, modified section 110(a)(2) and under part D, revised sections 172 and 182 adding new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to satisfy the requirement that the SIP meet all applicable requirements under the Act, USEPA has reviewed the SIP to ensure that it contains all measures and information that were due under the Act, as amended in 1990, prior to or at the same time Illinois submitted the redesignation request as considered here. The USEPA interprets section 107(d)(3)(E)(V) of the Act to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to and at the same time of the submission of the complete redesignation request.

B.1. Section 110 Requirements

Although section 110 of the Act was amended in 1990, the Illinois SIP addressing the Jersey County area meets the requirements of section 110(a)(2). A number of the requirements in section 110(a)(2) did not change in substance and, therefore, USEPA believes that the pre-amendment SIP meets these requirements. As to those requirements that were amended (57 FR 27936 and 23939, June 23, 1993), many duplicate other requirements of the Act and are addressed below.

B.2. Part D Requirements

Before Jersey County can be redesignated to attainment, the area and its associated SIP must meet the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified in table 1 of section 181(a) of the Act. As described in the April 16, 1992, General Preamble for the Implementation of Title I, specific requirements of subpart 2 may override Subpart 1's general provisions (57 FR 13501). On November 6, 1991, Jersey County was classified as a marginal ozone nonattainment area (56 FR 56694). Therefore, in order to be redesignated to attainment, the State, for Jersey County, must meet the applicable requirements of subpart 1 of part D, as well as the applicable requirements of subpart 2 of part D as they pertain to marginal ozone nonattainment areas.

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

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable on a schedule as determined by the Administrator, but no later than three years after an area has been designated as nonattainment under the amended Act. With the exception of requirements for which subpart 2 established SIP submission dates for corollary requirements prior to November 12, 1993 (which are discussed below), the requirements of section 172(c) were not applicable to ozone nonattainment areas on or before November 12, 1993, the date on which the State of Illinois submitted the complete redesignation request for Jersey County. Therefore, these requirements, including those of sections 172(c)(2) and 172(c)(9) are not applicable requirements for purposes of evaluating this redesignation request.

With respect to the requirement of section 172(c)(1) concerning the adoption of RACT, the USEPA notes that, as discussed elsewhere in this action, Illinois has completed the adoption of stationary source RACT rules statewide, the USEPA has approved these rules in prior rulemaking, and has found no deficiencies in the rules for Jersey County. In addition, the USEPA notes that, with respect to Jersey County, no additional RACT controls beyond the RACT rules already covered in the SIP are necessary or were required at the time of the submission of the redesignation request.

With respect to the emissions inventory requirement of section 172(c)(3), the USEPA notes that the State of Illinois has developed and submitted the required emissions inventory, which section 182(a)(1) required to be submitted by November 15, 1992. This emissions inventory has been the subject of separate review and rulemaking by the USEPA. EPA expects to take final action approving the emissions inventory before the USEPA takes final action approving the redesignation request for Jersey County. The emissions inventory must be approved for EPA to take final action approving this redesignation request.

As for the section 172(c)(5) New Source Review (NSR) requirement, once an area is redesignated to attainment this requirement is no longer applicable. The area then becomes subject to prevention of significant deterioration (PSD) requirements in lieu of the part D NSR program. Under USEPA policy

described in a Memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, and area need not comply with the NSR requirement of section 172(c) to be redesignated if it is demonstrated that the area will continue to maintain the ozone standard without a part D NSR program in place. As the State of Illinois has demonstrated the maintenance of the standard will occur without a part D NSR program (see discussion below) and PSD requirements will apply, the lack of fully-approved part D NSR rules applicable to Jersey County does not preclude the redesignation of Jersey County.

The requirements of section 172(c) are discussed below along with their relevancy to the redesignation request at hand:

(1) Section 172(c)(1) of the Act requires SIPs to provide for all Reasonably Available Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the NAAQS. As discussed elsewhere in this action, Illinois has completed the adoption of stationary source RACT rules statewide. The USEPA has approved these statewide RACT rules in prior rulemaking and has found no deficiencies in the rules for Jersey County.

In addition, the USEPA notes that, with respect to Jersey County, no additional RACM controls beyond the RACT rules already covered in the SIP are necessary upon redesignation to attainment. The April 16, 1992, General Preamble to the Implementation of Title I (57 FR 13560) explains that section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable. The USEPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area's attainment demonstration. Because attainment has been reached in Jersey County, no additional measures are needed to provide for attainment.

(2) Section 172(c)(2) requires the SIP to provide for Reasonable Further Progress (RFP) towards attainment of the NAAQS. This requirement only has relevance during the time it takes the area to attain the NAAQS. Because Jersey County has already attained the NAAQS, the SIP has already achieved the necessary RFP towards attainment of the NAAQS.

(3) Section 172(c)(3) requires the SIP to contain a comprehensive, accurate, current inventory of actual emissions

from all sources of the relevant pollutants. The State of Illinois has developed and submitted the required emissions inventory for Jersey County. This emissions inventory has been the subject of separate review and rulemaking by the USEPA. The approval of the emissions inventory is expected to be (and must be) finalized before the USEPA takes action to approve in final the redesignation of Jersey County to attainment for ozone.

(4) Section 172(c)(4) requires the SIP to identify and quantify the emissions which will be allowed to result from the construction of major new or modified stationary sources in the ozone nonattainment areas. Although the USEPA has not approved Illinois' NSR regulations, it should be noted that once an area is redesignated to attainment, nonattainment NSR requirements are not generally applicable. The redesignated area becomes subject to PSD requirements instead of the NSR requirements. The USEPA has promulgated acceptable PSD regulations for Illinois and has delegated the implementation of these regulations to the State. It should be noted, however, that until the USEPA officially redesignates Jersey County to attainment for ozone, sources seeking permits for major modifications or major source construction must be addressed through a new source review acceptable to the USEPA.

(5) Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the USEPA believes that the Illinois SIP meets the requirements of section 110(a)(2).

(6) Section 172(c)(9) requires the SIP to contain contingency measures to be undertaken if an area fails to make RFP or fails to attain the NAAQS. Since Jersey County has attained the NAAQS, the section 172(c)(9) contingency measure requirements are not applicable unless the redesignation request and maintenance plan are not fully approved. It should be noted that section 175A contingency measures apply to areas that are redesignated to attainment.

B.2.b. Other Part D Requirements

Below is a summary of Illinois' compliance with the part D requirements for marginal ozone nonattainment areas, such as Jersey County.

(1) *Submission of a Comprehensive Base Year Emissions Inventory.* Section 182(a)(1) of the Act requires the State to submit a comprehensive, accurate, current inventory of actual emissions from all sources of ozone precursors. As

noted above, Illinois has submitted a final, adopted 1990 base year emissions inventory and associated documentation for Jersey County. This emissions inventory is being reviewed in a separate rulemaking action. A Technical Support Document (TSD) recommending approval of this emissions inventory has been prepared to support a direct final rulemaking on this emissions inventory. This emissions inventory must be approved in final rulemaking before the USEPA can approve the redesignation of Jersey County in final rulemaking.

(2) *Emission Statement SIP Revision.* Section 182(a)(3)(B) of the Act requires the State to submit a SIP revision to require stationary sources of VOC or NO_x to annually submit statements of emissions from the sources. Illinois has submitted this SIP revision. A final USEPA rulemaking approving this SIP revision was published on September 9, 1993 (58 FR 47379).

(3) *New Source Review Regulations.* Section 182(a)(2)(C) of the Act requires the State to submit a SIP revision to: (a) require source permits in accordance with sections 172(c)(5) and 173 of the Act for the construction and operation of each new or modified major source (with respect to the emissions of ozone precursors); and (b) correct requirements in the existing SIP concerning permit programs as were required under section 172(b)(6) of the pre-1990 Act to comply with regulations promulgated by the USEPA prior to the 1990 amendment of the Act. Illinois has submitted a SIP revision request to comply with the requirements of section 182(a)(2)(C). The USEPA has reviewed this SIP revision request and has proposed to approve it (September 23, 1994, 59 FR 48839). Although the USEPA has not taken final rulemaking Action on this SIP revision, it should be noted that the USEPA does not consider compliance with these requirements to be a prerequisite to the redesignation or an area to attainment of the ozone NAAQS. The USEPA believes that the applicability of the part C PSD program to maintenance areas makes it unnecessary to require that an area have obtained full approval of NSR regulations required by part D of the Act in order to be redesignated. The USEPA believes that this interpretation of the Act is appropriate notwithstanding the requirement in section 175A(d) that the contingency provisions of a maintenance plan include a commitment on the part of the State to implement all measures to control the relevant air pollutant that were contained in the SIP prior to redesignation. The term "measure" is

not defined in section 175A(d) and it appears that Congress utilized the terms "measure" or "control measure" differently in different provisions of the Act that concern the PSD and NSR permitting programs. Compare section 110(a)(2)(A) and (C) with section 161. In light of this ambiguity in the use of the term "measure," USEPA believes that the term "measure" as used in section 175A(d) may be interpreted so as not to include NSR permitting programs. That this is an appropriate interpretation is further supported by USEPA's historical practice, dating before the amended Act, of not requiring redesignating areas to demonstrate through modeling or to otherwise justify replacing the nonattainment area NSR program with the PSD program once the areas were redesignated. Rather, the USEPA has historically allowed the NSR programs to be automatically replaced by the PSD programs upon redesignation.

(4) *RACT corrections.* Section 182(a)(2)(A) of the Act requires the State to correct deficiencies in the State's RACT regulations noted by the USEPA prior to the amended Act. The State notes that no deficiencies were noted for the RACT regulations applicable to Jersey County. Therefore, RACT corrections are not an issue for the Jersey County redesignation.

(5) *Conformity of federal actions with the SIP.* Section 176(c) of the Act requires the States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by the States be consistent with Federal conformity regulations that the Act required USEPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final USEPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the Implementation of Title I informed the States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557, April 16, 1992).

The USEPA promulgated final transportation conformity regulations on November 24, 1993, (58 FR 62188) and general conformity regulations on

November 30, 1993, (58 FR 63214). These conformity regulations require the States to adopt both transportation and general conformity provisions in the SIPs for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Illinois is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, the State of Illinois is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not applicable requirements under section 107(d)(3)(E)(V) and, thus, do not affect approval of the redesignation request. It should be noted, however, that regardless of the attainment status of Jersey County, Illinois is obligated under the transportation conformity rule and under the general conformity rule to submit the conformity SIP revisions, including revisions covering Jersey County by the deadlines discussed here. Therefore, the attainment status of Jersey County should not be an issue in this case. It is further noted that the Illinois redesignation request for Jersey County indicates that the State of Illinois will submit a SIP revision to meet USEPA's conformity requirements after Illinois has had sufficient time to review and act on USEPA's final conformity regulations.

C. Improvement of Air Quality Due to Permanent and Enforceable Emission Reductions

The IEPA notes, on the basis of relative emissions and on the basis of the meteorology leading to high ozone concentrations in Jersey County, that the high ozone concentrations observed in Jersey County in 1988 were due to ozone precursor emissions in the St. Louis/Metro-East St. Louis ozone nonattainment area. For example, the IEPA notes that the 1990 summertime VOC emissions in Jersey County were only 20 tons per day while the VOC emissions in the St. Louis/Metro-East St. Louis ozone nonattainment area were 922 tons per day. Given the proximity of the St. Louis/Metro-East St. Louis ozone nonattainment area, the dominance of ozone precursor emissions from that area compared to those from Jersey County, and the

meteorology of peak ozone days in Jersey County (winds are predominately from the southeast through southwest on these days placing Jersey County immediately downwind of the St. Louis/Metro-East St. Louis area), one can see that the ozone precursor emissions in the St. Louis/Metro-East St. Louis area are the likely source of the high ozone concentrations in Jersey County.

Between 1987 and 1990, the following VOC emission control measures were implemented in the Metro-East St. Louis area: (1) reduction in fuel volatility (Reid Vapor Pressure [RVP]) from 11.2 pounds per square inch (psi) to 9.0 psi; (2) continued implementation of the Federal Motor Vehicle Emission Control Program (FMVCP); (3) basic vehicle Inspection and Maintenance (I/M); and (4) RACT. In Jersey County, the following VOC emission control measures were implemented between 1987 and 1990: (1) reduction in fuel RVP from 11.2 psi to 9.5 psi; (2) continued implementation of the FMVCP; and (3) RACT on major sources. These emission control programs produced real and permanent decreases in VOC emissions and are responsible for the attainment of the ozone NAAQS in Jersey County.

The largest emission reductions have occurred for mobile sources and gasoline related evaporative emissions, which are a significant portion of the total VOC emissions for the St. Louis/Metro-East St. Louis and Jersey County areas. Mobile source emissions decreased approximately 25 percent between 1987 and 1990, and gasoline evaporative emissions decreased approximately 10 percent in the same time period.

D. Maintenance Plan

The following summarizes Illinois' maintenance plan for Jersey County:

(1) *Emission certification and tracking.* The IEPA will continue to inventory ozone precursor emissions in Jersey County and will make periodic updates in the emissions inventory consistent with the requirements of the Act. The IEPA will track Jersey County emissions to ensure that significant increases in emissions are identified and evaluated for possible air quality impacts. If significant negative air impacts are indicated, appropriate regulatory action will be initiated.

(2) *Maintenance of existing control programs.* The IEPA commits to continue enforcement of all State-adopted emission control measures included in the Illinois SIP. This will include review and issuance of stationary source permits and inspection of emission sources

consistent with the USEPA-approved Illinois program plan. This commitment insures that future VOC emission levels will not exceed current levels in Jersey County.

(3) *Compliance with Act requirements for the Metro-East St. Louis area.* The IEPA notes that the Act requires the St. Louis/Metro-East St. Louis ozone nonattainment area to achieve additional VOC emission reductions beyond the current emission levels. For example, the area will achieve an additional 15 percent VOC emission reduction from the 1990 emission level by 1996 as the result of Reasonable Further Progress (RFP) requirements. Accounting for source growth and emission reductions expected in the Metro-East St. Louis area through 2004, the IEPA expects an 18 ton per day VOC emission reduction between 1990 and 2004 (ten years after the year in which the USEPA is expected to approve the redesignation of Jersey County). This emission decrease does not account for the additional emission reduction that will occur in the St. Louis/Metro-East St. Louis area as a result of the attempt to attain the ozone standard by 1996.

(4) *Contingency measures.* After Jersey County is redesignated to attainment, the trigger for contingency measures will be a violation of the ozone standard based on quality assured data and a notice from the USEPA that the State of Illinois has failed to maintain the ozone NAAQS. After these triggering conditions have occurred, the IEPA will select the appropriate contingency measure(s) to prevent a violation of the ozone standard from reoccurring. The State commits to apply such a contingency measure within 18 months after the receipt of the notification from the USEPA of the NAAQS violation (A time schedule for the actions leading to the implementation of emission control measures was not given in the maintenance plan. It is assumed that the State will adopt necessary regulations earlier than 18 months, such that the regulations can be implemented within the 18 month time period). The contingency measure(s) to be considered will be selected from the following list or from measures deemed appropriate

and effective at the time the control measure selection is actually made:

- a. lower Reid vapor pressure for gasoline
- b. reformulated gasoline program
- c. Stage I and breathing controls at gasoline service stations
- d. Stage II vapor recovery controls at gasoline service stations
- e. extended geographic coverage of existing control measures
- f. requirements for RACT for existing source covered by USEPA Control Technique Guidelines (CTGs) issued in response to the amended Act
- g. application of RACT to non-major sources
- h. implementation of one or more transportation control measures sufficient to achieve at least a 0.5 percent reduction in Jersey County VOC emissions. The transportation control measures will be selected from the following:
 - i. trip reduction programs, including but not limited to employer-based transportation management plans, areawide rideshare programs, work schedule changes, and telecommuting
 - ii. transit improvements
 - iii. traffic flow improvements
 - iv. other transportation control measures in widespread use that the State and local governments deem to be appropriate
- i. alternative fuel programs for fleet vehicle operations
- j. controls on consumer products consistent with those adopted elsewhere in the United States
- k. requirements for VOC emission offsets for new and modified major VOC sources
- l. requirements for VOC emission offsets for new and modified minor VOC sources
- m. increased ratio of emission offsets required for new sources; and
- n. requirements for VOC controls on new minor sources.

The contingency measures may be considered for Jersey County or for upwind areas whose emissions impact the air quality in Jersey County. The selection of a particular contingency measure for implementation will be based on VOC emission reduction potential, cost-effectiveness, economic

and social considerations, or other factors that the IEPA deems to be appropriate.

(5) *Emission control authority and additional commitments.* The IEPA certifies that it has the authority to continue the application of existing emission control measures and additional emission control measures if required.

The IEPA commits to continue monitoring of ozone in Jersey County for the purposes of tracking continued maintenance of the ozone standard attainment. Additionally, the IEPA commits to revise the maintenance plan as necessary to comply with any subsequent USEPA finding that the maintenance plan is inadequate to maintain attainment of the ozone NAAQS (such a finding would be made by the USEPA if subsequent violations of the ozone standard showed that the maintenance plan is adequate to maintain attainment of the ozone standard or to further lower emissions after a monitored violation of the ozone standard) and to revise the maintenance plan in eight years in compliance with section 175A of the Act.

(6) *Demonstration of maintenance.* To demonstrate maintenance of the NAAQS, the IEPA has projected VOC, NOx, and CO emissions to 2004, ten years after USEPA is expected to approve the redesignation of Jersey County. Emission projections were based on methodology consistent with USEPA guidelines. For stationary point sources, the IEPA used growth factors obtained from Regional Economic Models, Incorporated (REMI) using Illinois-specific data. Area source and off-highway emissions were projected using population projections and other factors consistent with the approach used to project emissions in the State's 15 percent rate of progress plan (currently under development). On-highway emissions were projected assuming an annual growth rate of 2.5 percent as estimated by the Illinois Department of Transportation. On-highway emissions were estimated using MOBILE5a.

Emission estimates for the attainment base year (1990), 2006, and several interim years are given below:

VOC EMISSIONS (TONS PER DAY)

	1990	1995	2000	2004
Point sources	0.08	0.09	0.09	0.10
Area sources	2.79	2.81	2.83	2.84
On-road mobile sources	1.51	1.35	1.19	1.06
Off-road mobile sources	1.41	1.42	1.44	1.45

VOC EMISSIONS (TONS PER DAY)—Continued

	1990	1995	2000	2004
Biogenic sources	14.65	14.65	14.65	14.65
Total	20.44	20.32	20.20	20.10

NO_x EMISSIONS (TONS PER DAY)

	1990	1995	2000	2004
Point sources	0.00	0.00	0.00	0.00
Area sources	0.06	0.06	0.06	0.06
On-road mobile sources	1.50	1.50	1.49	1.49
Off-road mobile sources	2.76	2.86	2.95	3.03
Totals	4.32	4.42	4.50	4.58

CO EMISSIONS (TONS PER DAY)

	1990	1995	2000	2004
Point sources	0.00	0.00	0.00	0.00
Area sources	0.56	0.56	0.56	0.56
On-road mobile sources	9.74	7.95	6.16	4.73
Off-road mobile sources	5.93	5.99	6.06	6.11
Totals	16.23	14.50	12.78	11.40

The IEPA believes the decrease in VOC and CO emissions and relatively constant NO_x emissions (the small increase in NO_x emissions between 1990 and 2004 is viewed by the IEPA to be inconsequential with respect to ozone concentration changes) between 1990 and 2004 demonstrates the maintenance of the ozone NAAQS for the required ten year maintenance period.

It should be noted that the interim year emissions above were determined by the USEPA based on discussions with the IEPA. The USEPA and IEPA agreed that the interim year emission estimates should be based on linear interpolation between the 1990 and 2004 emission estimates. This is consistent with the source growth estimation procedure used by the State to estimate the 2004 emission levels, and USEPA believes that this method is appropriate and reasonable for estimating the interim year emissions. The USEPA believes that this method provides reasonable estimates of the emission levels in those years and does not underestimate those emissions. The interim year estimates support the IEPA's conclusion that the ozone NAAQS should be maintained in Jersey County for the period between 1990 and 2004.

III. USEPA Analysis of Redesignation Request

1. Monitored Attainment of the NAAQS

The IEPA has collected quality assured ozone data showing attainment of the ozone standard at all monitoring sites during the most recent three years of monitoring. These data are recorded in AIRS.

2. Approved State Implementation Plan

Jersey County is covered by a SIP approved by the USEPA under section 110 and part D of the Act. Illinois has implemented this SIP. The implementation of this SIP included the adoption and implementation of USEPA approved RACT regulations and other required reasonably available control measures required by the pre-1990 Act.

Illinois has complied with the amended Act. Illinois has submitted a 1990 base year emissions inventory for VOC, CO, and NO_x emissions. This emissions inventory appears to be acceptable, and must be approved in final before the USEPA can approve the redesignation of Jersey County to attainment for ozone. The emission inventory is the subject of a separate rulemaking action. Illinois has also submitted a SIP revision requiring annual emission statements from major sources and the SIP was approved by USEPA on September 9, 1993, (See 58 FR 47379).

As noted above, although Illinois' NSR regulations have not been

approved by the USEPA, the USEPA does not consider this to be reasonable basis for disapproving Illinois' redesignation request since PSD requirements will replace NSR after Jersey County has been redesignated to attainment. Until such time, addition of major new sources or major modification of existing ozone precursor sources must be covered NSR permits acceptable to both the State of Illinois and the USEPA.

Lack of adopted mobile source conformity regulations is inconsequential since such regulations are required whether Jersey County is designated as nonattainment or attainment for ozone.

3. Improvement of Air Quality Due to Permanent Emission Reductions

Implementation of VOC emission controls in Jersey County and in the St. Louis/Metro-East St. Louis ozone nonattainment areas has led to permanent, enforceable emission reductions which can explain the observed improvement in ozone levels in Jersey County.

4. Maintenance Plan

The contingency portion of the maintenance plan was found to be acceptable. In addition, an acceptable demonstration of maintenance for Jersey County has been made through emission projections to 2004.

One issue concerning the contingency measures, however, must be noted. As

discussed above, Illinois has chosen to include the implementation of tighter gasoline RVP (requiring lower RVP) requirements as a contingency measure. At the same time Illinois was finalizing its maintenance plans, the USEPA issued new guidance concerning the use of lower RVP as contingency measures in maintenance plans. This new guidance was provided in a November 8, 1993, memorandum from Michael Horowitz, Office of General Counsel, to Directors of Air and Radiation Divisions. The guidance indicates that, for States to include lower RVP as a contingency measure in maintenance plans, the maintenance plan must include several things with respect to this contingency measure. First, the maintenance plan must indicate that if the former nonattainment area fell back into nonattainment, the State would submit a request to the USEPA to find under section 211(c)(4)(C) of the Act that the lower RVP requirement is necessary for the area to achieve the ozone NAAQS. Second, since the implementation of a lower RVP would rely upon USEPA's determination of whether it was necessary to achieve attainment, the State must provide for the possibility that a lower RVP could not be implemented. To do so, the State would need to provide for a backup measure in the maintenance plan. The maintenance plan could also include a commitment to adopt, as an alternative to the specified measure, measures identified by the USEPA as practicable in its denial of the State's request for a lower RVP requirement. If the State chooses to adopt measures specified by the USEPA and the USEPA has provided several options for acceptable measures, the State must adopt the requisite number of these measures as is necessary to again achieve the standard. The State would need to include a schedule for submittal of the section 211(c)(4)(C) request to the USEPA and a schedule for final adoption and implementation of a lower RVP standard, or the back-up measure(s), or the alternative measures selected by the USEPA. The schedule would need to be tied to the triggering event for the contingency measure, not to USEPA action on the 211(c)(4)(C) request.

Notwithstanding the November 8, 1993, policy discussed above, which was not available to Illinois at the time the State was finalizing and submitting its maintenance plans to the USEPA, USEPA should approve Illinois' maintenance plan as it currently exists. This is because Illinois has identified a wide range of contingency measures to choose from in the maintenance plan

and is, therefore, not relying exclusively on lower RVP requirements as a contingency measure. If Illinois, however, upon the triggering of the need to implement contingency measures, chooses to implement requirements for lower RVP, Illinois must submit the section 211(c)(4)(C) request in compliance with the Act.

Based on the above, it is recommended that the USEPA approve Illinois' request for the redesignation of Jersey County to attainment for ozone as well as Illinois' maintenance plan for this county.

IV. USEPA's Proposed Rulemaking Action

The USEPA proposes to approve the redesignation of Jersey County to attainment for ozone because the State of Illinois has met the requirements of the Act revising the Illinois ozone SIP.

V. Request for Public Comments

USEPA is requesting comments on the requested SIP revision and this proposed rule. As indicated at the outset of this notice, USEPA will consider any comments received by December 27, 1994.

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.

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 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 January 24, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: November 16, 1994.

Jo Lynn Traub,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (h) to read as follows.

§ 52.726 Control strategy: Ozone.

* * *

(h) Approval—On November 12, 1993, the Illinois Environmental Protection Agency submitted an ozone redesignation request and maintenance plan for Jersey County ozone

nonattainment area and requested that Jersey County be redesignated to attainment for ozone. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(d) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Illinois ozone State Implementation Plan for Jersey County.

* * * * *

[FR Doc. 94-29144 Filed 11-23-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 60

[AD-FRL-4507-6]

Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: Revisions are proposed to the monitoring requirements of subpart A and to performance specification 1 (PS-1) of appendix B. Today's action proposes revisions to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. Today's action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vendor obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before January 24, 1995.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by December 16, 1994, a public hearing will be held on December 27, 1994 beginning at 10 a.m. Persons interested in attending the hearing should call the contact person

mentioned under **ADDRESSES** to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony at the public hearing must contact EPA by December 5, 1994.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Air Docket Section (LE-131), Attention: Docket No. A-91-07, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Emission Measurement Laboratory Building, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should contact Mr. Solomon O. Ricks, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-3576.

Docket. A docket, No. A-91-07, containing information relevant to this rulemaking, is available for public inspection between 8:30 a.m. and noon and 1:30 p.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, room M-1500, First Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the standard, contact Mr. Solomon Ricks at (919) 541-5242, Emission Measurement Branch, Technical Support Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in reading the preamble to the proposed method.

- I. Introduction
- II. Summary of Proposed Revision
 - A. Design
 - B. Demonstration of Design
 - C. Performance Specifications
- III. Administrative Requirements
 - A. Public Hearing
 - B. Docket
 - C. Office of Management and Budget Reviews
 - D. Regulatory Flexibility Act Compliance

I. Introduction

These revisions to subpart A and PS-1 will apply to all continuous opacity monitors installed for purposes of monitoring opacity, as required in the Code of Federal Regulations (CFR). These requirements may also apply to stationary sources located in a State,

District, Reservation, or Territory that has adopted these requirements into its implementation plan.

The PS-1, Specifications and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources, was first promulgated in the *Federal Register* (40 FR 64250) on October 6, 1975. A subsequent revision to this specification was promulgated in the *Federal Register* March 30, 1983 (48 FR 13322). These specification revisions for COMS's are based on information obtained by EPA from additional experience with the procedures since that promulgated revision. Prior to today's action, the proposal was distributed for comment to a review group of EPA Regional Offices and a State agency. In addition, EPA solicited input from opacity monitor manufacturers and concerned industries. The EPA considered comments from these sources and incorporated additional changes.

The specifications, in total, shall apply to all COMS's installed or replaced after the date of promulgation. All COMS that have been installed prior to the date of promulgation of these revisions would not be subject to these revisions unless replaced or specifically required to comply. Following promulgation, a source owner, operator, or manufacturer will be subject to these PS's if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has undergone substantial refurbishing (in the opinion of the enforcing agency), or has been specifically required to recertify the COMS with these revisions.

The COMS, which met PS-1 prior to these revisions, may not meet today's proposed specifications. Alternative designs or procedural modifications to PS-1, approved by the Administrator prior to the proposal of these revisions, are not applicable to monitors subject to these revisions. However, source owners and operators, as well as manufacturers, may apply or reapply per § 60.11(i) to the Administrator for alternatives to these PS's.

II. Summary of Proposed Revisions

Today's action proposes to restructure and clarify PS-1. The proposal restructures organization of the specification and delineation of responsibilities to demonstrate conformance with design, location, and performance requirements.

Opacity monitoring system technology works in the following way: light with specific spectral characteristics is projected from a lamp through the effluent in the stack or duct,

and the intensity of the projected light is then measured by a sensor. The projected light is attenuated because of absorption and scatter by the particulate matter in the effluent; the percentage of light attenuated is defined as the opacity of the emission. Transparent stack emissions that do not attenuate light have a transmittance of 100 percent or an opacity of zero percent. Opaque stack emissions that attenuate all of the light have a transmittance of zero percent or an opacity of 100 percent. The opacity measured at the location of the COMS is corrected for differences in measurement pathlength from stack or vent exit conditions and reported as the facility's opacity emission.

A. Design

The design requirements, as promulgated March 30, 1983, continue to be required. The following additional and upgraded requirements are being proposed:

1. The optical alignment device, used to assure that the system is optically aligned, must clearly indicate misalignment before the ± 2 percent opacity shift allowed by the design performance limit occurs. Therefore, systems with subjective observation indicators, e.g., "top-dead-center," may not comply. Manufacturer evaluations, conducted in 1989 and 1990, found that several manufacturers were revising their alignment devices to clearly indicate misalignment. However, 1992 evaluations have identified a continuing problem of clearly depicting misalignment. Specifically, a COMS was placed in zero alignment, yet, the alignment sight directions would have indicated that it was misaligned. Realignment in this instance could have caused a negative bias in future recordings.

2. In addition, in 1992, EPA observed COMS responses over different distances for the COMS alignment test and concluded that the alignment check should be done at the installation pathlength and not at 8 meters, as currently required by PS-1. This is also a practice of the manufacturers due to specific aperture, objective lens, and installation pathlength requirements. Because the alignment check and performance test are considered installation pathlength specific and because of the Agency's need to assure clarity in the misalignment, the optical alignment test is now required at the site of the installation. This will provide an opportunity for the enforcing agency and source owner or operator to evaluate and establish clarity in the depiction of misalignment.

3. The angle of view (AOV) and angle of projection (AOP) specifications have been revised. Defined as the angle that contains all of the photopic radiation either detected or projected by the COMS, the collimation of the light beam has been reduced to a maximum total of 4 degrees. From 1989 to 1992 time period, EPA observed the AOV and AOP testing, conducted by 10 major manufacturers of COMS sold in the United States, and concluded that the AOV and AOP should be reduced from the current 5 degrees to 4 degrees. This change also reflects manufacturers' improvement in the instruments.

4. The COMS must provide a means to simulate a zero and upscale calibration value in order to check the COMS transmitter/receiver calibration. The calibration checking system shall include, at the same time, all the optical and electromechanical equipment used in the normal measurement mode. The checking system will measure and provide a permanent record of the COMS calibration status. The COMS's, which conduct zero and upscale calibration drift (CD) assessments without simultaneously checking all the components actively used in normal day-to-day opacity measurement, are deemed to deviate from the proposed specifications. The Agency recognizes that some existing dual-path COMS's do not include the reflector in the daily zero and span check. However, these COMS's have been, and will continue to be, an accepted exception to the simultaneous check requirement.

5. The COMS shall provide operators visual or audible alarms for exceeding PS-1, operation specification, equipment failures, and effluent opacity standards.

6. The COMS shall provide an automated means to assess and record accumulated automatic zero compensations on a 1-hour and 24-hour basis. The 1-hour is specifically required only during a specific 24-hour period of the operational test period. The 24-hour assessment and recording of the 24-hour accumulated CD is a continual requirement of the system.

7. The automatic compensation for dirt accumulation on the window surfaces of the COMS requires including the compensation allowance in the 4 percent opacity tolerance for zero CD adjustment. The measurement for determining compensation shall be conducted on those surfaces that are directly in line with the light beam used to measure the effluent opacity. In addition, only those optical surfaces, directly in the light beam path under normal operation to measure opacity, may be compensated for dust

accumulation. The EPA has determined that systems that attempt to measure dust accumulation in locations, other than the measurement path of the normally transmitted measurement light beam or assume equal and uniform dust accumulations on unmeasured surfaces (e.g., reflectors), could result in unacceptable negative biases in opacity measurements. Those automatic dust compensation systems that meet the optical path assessment criteria may demonstrate and petition the Administrator for an increase in compensation to 20 percent opacity adjustment.

8. Providing a means to independently audit the COMS will be required of all new and replacement COMS's. Manufacturers of COMS's, meeting the March 30, 1983 specifications, have routinely incorporated this performance check allowance into their designs. In addition, the proposed specifications recognize and allow for the use of a "zero-jig." This apparatus, which must have a unique serial number specific to the installed COMS, may be used to conduct performance check audits as well as for zero calibrations of the COMS transmitter/receiver (dual-path systems) during installation.

9. The COMS must automatically correct opacity emissions measured at the COMS installation location to the emission outlet pathlength. The capability to automatically display and record the pathlength correction factor (PLCF) changes must be incorporated into the COMS design.

B. Demonstration of Design

The proposed demonstration of design conformance requirements of PS-1 have evolved from historical observation of the current required demonstrations. Such demonstrations have customarily been done by COMS manufacturers due to their unique capabilities at the manufacturing locations. The EPA believed this to be appropriate in 1983 when it allowed the source owner or operator to obtain a Manufacturer's Certificate of Conformance (MCOC) rather than conducting design performance testing at the source. The EPA, then and now, continues to hold the source owner and operator responsible for the overall demonstration that the COMS meets all of PS-1 requirements. Today's proposed specification requires COMS manufacturers to conduct the design specification testing required in section 6.0, Design Specification Verification Procedure. However, this does not relieve the source owners or operators from demonstrating compliance with

applicable COMS requirements. Manufacturers of COMS's are encouraged, although not required, to seek an EPA evaluation of their design specification demonstration procedures for each model of COMS marketed as conforming with these specifications. The evaluation will provide competitive advantages to successful demonstrations as well as providing purchaser assurances of initial conformance to regulatory requirements. The activity is expected to reduce retrofit and corrective costs potentially encountered with nonconforming systems. The evaluation will also ensure that COMS's manufactured outside the United States (U.S.), for subsequent sale in the U.S., perform testing in the U.S. prior to sale.

The design specification testing requirements assume that apparatus used to conduct demonstrations is proper. Adequately rugged apparatus will assure the accuracy and rigor required at the specification frequency. The testing requirements for demonstrating conformance with the design specifications assume that the testing apparatus, used to conduct such tests, were properly chosen, adequately rugged, and sufficiently accurate. The 1989-1990 evaluation of procedures, conducted by the COMS manufacturers, found a broad spectrum of sophistication in demonstration apparatus. The detection limits of some equipment, used in the manufacturers' procedures, were found to be a limiting factor in the conduct of some tests. If manufacturers' operations are not sufficiently precise, accurate, or permanent, evaluations may indicate problems in repeatability.

The 1983 monitor selection process for design demonstration testing did not clearly specify how to select a monitor if the manufacturing operation was not continuous or did not include large inventories. Most COMS manufacturing operations are likely to use off-the-shelf or imported components, and the COMS's are constructed and shipped as orders are received. Large inventories generally do not exist, and production is demand-based. Today's proposed monitor selection process revises the 1983 process to recognize some of these typical manufacturing operations. The proposal requires that each COMS installed, pursuant to the requirements of an applicable standard, have a serial number assigned by the manufacturer. (Note: If a zero-jig is manufactured and provided for the COMS model type, a unique serial number for the zero-jig, corresponding to the installed COMS serial number, is required.) The proposed model selection process of section 6, Design Specification

Verification Procedure, specifies that the COMS (per model) selection will be based on a randomly-selected COMS produced during the month or a randomly-selected COMS per 20 such monitors produced, whichever is more frequent.

If 20 or more COMS's of a particular model are produced in a month, the manufacturer shall randomly select a COMS of that model from that month's production for conducting the design conformance tests in sections 6.2 through 6.6. Otherwise, the manufacturer shall select a COMS with a serial number in a distinct lot of 20 monitors of that model produced, or to be produced, and shall test that COMS for demonstrating conformance with the design specifications.

The proposed specification does not require additional sampling and testing upon the finding of nonconformance with the design requirements. Upon such finding, however, the specification requires the manufacturer to notify all sources who have purchased that model of COMS if the COMS was manufactured since the model's last successful demonstration of conformance. The manufacturer must send a copy of all such notifications to EPA.

The design specification demonstration incorporates other requirements.

1. An outline of an example of a MCOC is provided to give direction on the presentation of supporting documentation for performance demonstration tests.

2. The current specifications do not require verification of supporting COMS component conformance documentation, such as lamp emissivity, which is used for the construction of a spectral response curve. Also, the 1983 specifications did not put any limit on the valid time period for certain supporting demonstrations such as development of the spectral response curve. As a result, some MCOC's now reflect 5-year old data. The 1989-1990 evaluations of the COMS manufacturers identified incorrect calculation procedures as well as inclusion of a component that caused an unacceptable COMS response. The manufacturer in the latter case, who calculated the response curve, was unaware that the component's characteristics had changed.

The proposed PS's require the manufacturer to measure the spectral response curve of the COMS. The specifications will no longer allow the manufacturer, or source owner or operator, to calculate the spectral response curve from lamp emissivity,

detector response, and filter characteristics. The EPA has identified two acceptable systems and procedures for measuring the COMS spectral response curve at 10 nm intervals from 300 to 800 nm. Information, provided by the manufacturers, indicates that this requirement is not overly burdensome. This information is necessary because, from this information, both the peak and mean spectral response can be accurately determined.

3. The AOV and AOP tests have been clarified and reaffirmed in the specification. Note that no alternative procedures have been approved for the AOV and AOP, even though manufacturers may be using alternatives. The specification clearly states that alternative procedures require approval by the Administrator. Therefore, source owners and operators must obtain approvals of an alternative procedure prior to seeking a site-specific COMS approval.

C. Performance Specifications

The major change to the PS-1 demonstrations from the 1983 specification occurs in section 7, Performance Specification Verification Procedures. The proposal requires that testing be conducted at the affected facility. Current practices have allowed verification tests to be conducted at the COMS manufacturers' facility. However, the 1983 specifications intended verification testing to be performed at the affected facility to ensure that the entire COMS system was evaluated for the specific installation. The current practices have resulted in excluding the data recording portion of the system used at the installation under normal measurement conditions and, thereby, limiting assessment of the COMS for the specific installation. For this reason, the proposed specification clarifies where the required PS-1 testing of section 7 is to be conducted.

The proposal also simplifies procedures for calibration attenuator selection. The COMS's have been typically required to demonstrate a certain degree of calibration error over a range of emissions specified as the span value. This span value may or may not correspond to the actual instrument range (0 to 100 percent opacity). The primary concern of COMS data users is the capability of the instrument to measure accurately opacities at, or near the applicable standard. Once the opacity level exceeds the standard, the magnitude of the emissions tends to be of lesser concern than the duration of the operation. Therefore, the proposal includes selection of appropriate attenuators and calibration error test for

the applicable opacity emission standard.

The specifications recognize the need to set a surrogate emission limit for purposes of conducting the calibration error test. This is due to the fact that some authorities set opacity limitations of zero percent, and the specification must assess calibration accuracy and linearity around the standard. Attenuator opacity values are specified in terms of optical density (or transmittance) which exhibits a logarithmic relationship to opacity. Because of the nonlinear nature of this relationship, COMS calibration at high opacity values becomes more difficult. At the low opacity emission limitations of current regulations, e.g., 20 percent, the nonlinear relationship of opacity and optical density is not severe and is within the error specification in this proposal. Therefore, a surrogate limit for purposes of the calibration error test would continue to assure acceptable COMS accuracy, even though the actual emission limitation was below the surrogate value. Consequently, where emission standards have been set at 10 percent opacity or less, the proposal specifies a surrogate 10 percent opacity limit for purposes of conducting the calibration error test. The EPA contacted attenuator manufacturers who indicated that certifiable low opacity, i.e., 2 percent opacity (98 percent transmittance) attenuators, necessary to comply with the required testing, are available.

Where dual standards are specified, e.g., a 10-percent opacity limitation with an allowance for one 6-minute period in an hour not to exceed 40 percent opacity, the calibration error test must be conducted over the full range of standards. The test may be conducted as a three-point calibration error test over the range, i.e., 10 to 40 percent opacity, or separate three-point calibration error tests around each requirement.

The proposal describes procedures for setting the instrument zero and upscale calibration values and zero alignment. The proposal specifies that a check of the adequacy of the zero setting with the alignment must be made. If discrepancies between measured values exist, they should be resolved prior to stack installation. At this time (if part of the system), the zero-jig zero setting also should be adjusted to coincide with the instrument zero for the monitor pathlength, recorded and permanently set.

The 1983 specifications did not specify the use of secondary instruments to establish secondary attenuators for calibration error tests. Today's specification provides a

procedure for qualifying a secondary instrument. The conditioning period has been incorporated into the operational test period. The operational test period is now a 336-hour test period during which the maintenance and operational restrictions, that were required of both conditioning and operational periods in the 1983 specifications, still apply. An additional test has been included to address short-term diurnal fluctuations in COMS's opacity output readings. This 1-hour drift test and specification are designed to assess and limit the amount of zero and upscale calibration value drifts due to operational conditions occurring during a 24-hour period.

III. Administrative Requirements

A. Public Hearing

In accordance with section 307(d)(5) of the Clean Air Act as amended by Public Law 101-549, the Clean Air Act Amendments of 1990, a public hearing will be held, if requested, to discuss the proposed revisions to subpart A and appendix B. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with the EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials) [Clean Air Act Section 307(d)(7)(A)].

C. Office of Management and Budget Review

Due to the timing of review which was pre-Executive Order 12866 (58 FR 51735; October 4, 1993), this NPRM underwent Executive Order 12291

Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rulemaking is not major because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

D. Regulatory Flexibility Act Compliance

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant impact on a substantial number of small entities because no additional cost will be incurred by such entities. The requirements of the proposal reaffirm the existing requirements for demonstrating conformance with the COMS PS's. Small entities will be affected to the same degree that they are affected under existing requirements.

This rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Particulate matter.

Dated: November 8, 1994.

Carol M. Browner,
Administrator.

The EPA proposes that 40 CFR part 60 be amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

Subpart A—[Amended]

2. Section 60.13 is amended by revising paragraph (d)(1) to read as follows:

§ 60.13 Monitoring requirements.

* * * * *

(d)(1) Owners and operators of continuous emission monitoring systems (CEMS's) installed in accordance with the provisions of this part, shall automatically check the zero (or low level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts (CD's) at least once daily. For CEMS's used to measure opacity in

accordance with the provisions of this part, owners and operators shall automatically, intrinsic to the continuous opacity monitoring system (COMS), check the zero and upscale calibration drifts at least once daily. For a particular COMS, the acceptable range of zero and upscale calibration materials shall be as defined in the applicable version of PS-1 in appendix B of this part. Where an opacity standard of 10 percent or less, corrected to stack exit conditions, has been specified, a surrogate 10 percent opacity standard shall be used for determining the daily calibration values for the drift assessments required above. The zero and upscale value shall, as a minimum, be adjusted whenever either the 24-hour zero drift or the 24-hour span drift exceeds two times the limit of the applicable PS in appendix B. The system must allow the amount of the excess zero and span drift to be recorded and quantified whenever specified. For COMS's, the optical surfaces, exposed to the effluent gases, shall be cleaned prior to performing the zero and span drift adjustments, except for systems using automatic zero adjustments. The optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity.

* * * * *

Appendix B—[Amended]

3. Appendix B to part 60 is amended by revising Performance Specification 1 to read as follows:

Appendix B to Part 60—Performance Specifications

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Performance Specification 1—Specifications and Test Procedures for Continuous Opacity Monitoring Systems in Stationary Sources

1. Applicability and Principle

1.1 Applicability.
1.1.1 This specification contains requirements for the design, performance, and installation of instruments for continuous opacity monitoring systems (COMS's) and data computation procedures for evaluating the acceptability of a COMS. Certain design requirements and test procedures, established in this specification, may not apply to all instrument designs proposed for installation after the effective date of these specifications. In such instances, approval for the use of alternative design requirements and test procedures shall be obtained from the Administrator prior to a demonstration of conformance with these specifications.

1.1.2 Performance Specification 1 (PS-1) applies to COMS's installed on or after the effective date which is the date of promulgation of these specifications. The COMS's installed prior to the effective date

are required to comply with the provisions and requirements of PS-1 as promulgated on March 30, 1983 (48 FR 13322).

1.1.3 A COMS installed before the effective date of these specifications need not be re-tested to demonstrate compliance with these PS's unless specifically required by regulatory action other than the promulgation of PS-1. If a COMS installed prior to the effective date is replaced or relocated, this PS-1 shall apply to the COMS replacement or as relocated.

1.2 Principle.

1.2.1 The opacity of particulate matter in stack emissions is continuously monitored and corrected to a stack exit pathlength by a measurement system, based upon the principle of transmissometry. Light, having specific spectral characteristics, is projected from a lamp through the effluent in the stack or duct, and the intensity of the projected light is measured by a sensor. The projected light is attenuated because of absorption and scatter by the particulate matter in the effluent; the percentage of visible light energy attenuated is defined as the opacity of the emission.

1.2.2 This specification establishes specific design, performance, and installation criteria for the COMS. Prior to installation, source owners and operators must provide verification that the COMS has met the design specifications. Prior to installation, it is recommended that the COMS installation location be reviewed and approved by the appropriate regulatory authority. Then, the owner and operator calibrates, installs, and operates the COMS for a specified test period. During this specified test period, the COMS is further evaluated to determine conformance with PS-1.

2. Definitions

2.1 Angle of Projection (AOP). The angle that contains all of the radiation projected from the lamp assembly of the analyzer at a level of greater than 2.5 percent of the peak illuminance.

2.2 Angle of View (AOV). The angle that contains all of the radiation detected by the photodetector assembly of the analyzer at a level greater than 2.5 percent of the peak detector response.

2.3 Calibration Drift (CD). The difference in the COMS output readings from the upscale calibration value after a stated period of normal continuous operation during which no unscheduled maintenance, repair, or adjustment took place.

2.4 Calibration Error. The difference between the opacity values indicated by the COMS and the known values of a series of calibration attenuators (filters or screens).

2.5 Centroid Area. A concentric area that is geometrically similar to the stack or duct cross-section and is no greater than 1 percent of the stack or duct cross-sectional area.

2.6 Continuous Opacity Monitoring System. The total equipment required for the determination of opacity. The system consists of the following major subsystems:

2.6.1 Analyzer. That portion of the installed COMS that senses the pollutant and generates an output that is a function of the opacity.

2.6.2 Data Recorder. That portion of the installed COMS that provides a permanent

record of the analyzer output in terms of opacity. The data recorder may include automatic data reduction capabilities.

2.6.3 Sample Interface. That portion of the installed COMS that protects the analyzer from the effects of the stack effluent and aids in keeping the optical surfaces clean.

2.7 External Audit Device. The inherent design, equipment, or accommodation of the COMS allowing the independent assessment of system calibration and operation. An adequate design shall permit the use of external (i.e., not intrinsic to the instrument) neutral density filters to assess monitor operation.

2.8 External Zeroing Device (Zero-Jig). An external, removable device for simulating or checking the cross-stack zero alignment of the COMS.

2.9 Full Scale. The maximum data display output of the COMS. For purposes of recordkeeping and reporting, full scale shall be greater than 80 percent opacity.

2.10 Mean Spectral Response. The mean response wavelength of the wavelength distribution for the effective spectral response curve of the transmissometer.

2.11 Opacity. The fraction of incident light that is attenuated by an optical medium. Opacity (Op) and transmittance (Tr) are related by: $Op = 1 - Tr$.

2.12 Operational Test Period. A period of time (336 hours) during which the COMS is expected to operate within the established PS's without any unscheduled maintenance, repair, or adjustment.

2.13 Optical Density. A logarithmic measure of the amount of incident light attenuated. Optical Density (OD) is related to the transmittance and opacity as follows: $OD = -\log_{10}(1 - Op)$.

2.14 Pathlength. The depth of effluent in the light beam between the receiver and the transmitter of a single-pass transmissometer, or the depth of effluent between the transceiver and reflector of a double-pass transmissometer. Three pathlengths are referenced by this specification as follows:

2.14.1 Emission Outlet Pathlength. The pathlength (depth of effluent) at the location where emissions are released to the atmosphere. For noncircular outlets, $D = (2LW)/(L + W)$, where L is the length of the outlet and W is the width of the outlet. Note that this definition does not apply to positive pressure baghouse outlets with multiple stacks, side discharge vents, ridge roof monitors, etc.

2.14.2 Installation Pathlength. The installation flange-to-flange distance.

2.14.3 Monitoring Pathlength. The effective depth of effluent (the distance over which the light beam is actually evaluating the stack effluent) measured by the COMS at the installation location. Monitoring pathlength is to be used for the optical alignment, response, and calibration error tests of section 7 and calculation of the pathlength correction factor (PLCF). The effective depth of effluent measured by the COMS must be equal to or greater than 90 percent of the distance between duct or stack walls.

2.15 Peak Spectra Response. The wavelength of maximum sensitivity of the transmissometer.

2.16 Primary Attenuators. Primary attenuators are those calibrated by the National Institute of Standards and Technology (NIST).

2.17 Response Time. The amount of time it takes the COMS to display on the data recorder 95 percent of a step change in opacity.

2.18 Secondary Attenuators. Secondary attenuators are those calibrated against primary attenuators according to procedures in section 7.1.3.

2.19 Transmissometer. That portion of the installed COMS that includes the sample interface and the analyzer.

2.20 Transmittance. The fraction of incident light that is transmitted through an optical medium.

2.21 Upscale Calibration Value. The opacity value at which a calibration check of the COMS is performed by simulating an upscale opacity condition as viewed by the receiver. An opacity value (corrected for pathlength) that is 150 to 190 percent of the applicable opacity standard.

2.22 Zero Calibration Value. A value at which a calibration check of the COMS is performed by simulating a zero opacity condition as viewed by the receiver. An opacity value (corrected for pathlength) that is 0 to 10 percent of the applicable opacity standard.

2.23 Zero Drift. The difference in the COMS output readings from the zero calibration value after a stated period of normal continuous operation during which no unscheduled maintenance, repair, or adjustment took place.

2.24 Zero and Upscale Calibration Value Attenuator System. An inherent system of the COMS which can be an automatic electro-mechanical and filter system for simulating both a zero and upscale calibration value, providing an assessment and record on the calibration of the instrument. Optical filters or screens with neutral spectral characteristics, or other device that produces a zero or an upscale calibration value shall be used.

3. Apparatus

3.1 Continuous Opacity Monitoring System. A COMS that meets the design and PS's of PS-1, including a suitable data recorder, such as an analog strip chart recorder or other suitable device (e.g., digital computer) with an input signal range compatible with the analyzer output.

3.2 Calibration Attenuators. Minimum of three. These attenuators must be optical filters with neutral spectral characteristics selected and calibrated according to the procedures in sections 7.1.2 and 7.1.3 and of sufficient size to attenuate the entire light beam received by the detector of the COMS.

3.3 Calibration Spectrophotometer. A laboratory spectrophotometer meeting the following minimum design specifications:

Parameter	Specification
Wavelength range.	300-800 nm.

Parameter	Specification
Detector angle of view.	<10°.
Accuracy	<0.5% transmittance, NIST traceable calibration.

3.4 Spectral Response Measurement System. Equipment and procedures capable of providing an accurate evaluation and recording of the spectral response curve of the COMS. The equipment will include, but is not limited to, a Helium-Neon laser for calibration, a monochromator capable of 10 nm incremental changes over a range of 300 to 800 nm, and other appropriate optical bench requirements.

3.5 COMS Test Stands and Related Equipment. Equipment capable of allowing the accurate conduct of the performance tests to the necessary tolerances called for by these specifications.

4. Installation Specifications

Install the COMS at a location where the opacity measurements are representative of the total emissions from the affected facility. This requirement can be met as follows:

4.1 Measurement Location. Select a measurement location that is (a) at least 4 duct diameters downstream from all particulate control equipment or flow disturbance, (b) at least 2 duct diameters upstream of a flow disturbance, (c) where condensed water vapor is not present, (d) free of interference from ambient light, and (e) accessible in order to permit maintenance.

4.2 Measurement Location. The primary concern in locating a COMS is determining a location of well-mixed stack gas. Two factors contribute to complete mixing of emission gases: turbulence and sufficient mixing time. The criteria listed below define conditions under which well-mixed emissions can be expected. Select a light beam path that passes through the centroidal area of the stack or duct. Additional requirements or modifications must be met for the following locations:

4.2.1 If the location is in a straight vertical section of stack or duct and is less than 4 equivalent diameters downstream from a bend, use a light beam path that is in the plane defined by the upstream bend (see figure 1-1).

4.2.2 If the location is in a straight vertical section of stack or duct and is less than 4 equivalent stack or duct diameters upstream from a bend, use a light beam path that is in the plane defined by the bend (see figure 1-2).

4.2.3 If the location is in a straight vertical section of stack or duct and is less than 4 equivalent stack or duct diameters downstream and is also less than 1 diameter upstream from a bend, use a light beam path in the plane defined by the upstream bend (see figure 1-3).

4.2.4 If the location is in a horizontal section of stack or duct and is at least 4 equivalent stack or duct diameters downstream from a vertical bend, use a light beam path in the horizontal plane that is between $\frac{1}{3}$ and $\frac{1}{2}$ the distance up the vertical axis from the bottom of the duct (see figure 1-4).

4.2.5 If the location is in a horizontal section of duct and is less than 4 diameters downstream from a vertical bend, use a light beam path in the horizontal plane that is between $\frac{1}{2}$ and $\frac{2}{3}$ the distance up the vertical axis from the bottom of the duct for upward flow in the vertical section, and is between $\frac{1}{3}$ and $\frac{1}{2}$ the distance up the vertical axis from the bottom of the duct for downward flow (figure 1-5).

4.3 Alternative Locations and Light Beam Paths. Locations and light beam paths, other than those cited above, may be selected by demonstrating, to the Administrator or delegated agent, that the average opacity measured at the alternative location or path is equivalent to the opacity as measured at a location meeting the criteria of section 4.1 or 4.2. The opacity at the alternative location is considered equivalent if the average opacity value measured at the alternative location is within ± 10 percent of the average opacity value measured at the location meeting the installation criteria in section 4.2, and the difference between any two average opacity values is less than 2 percent opacity (absolute). To conduct this demonstration, simultaneously measure the opacities at the two locations or paths for a minimum period of time (e.g., 180-minutes) covering the range of normal operating conditions and compare the results. The opacities of the two locations or paths may be measured at different times, but must represent the same process operating conditions. Alternative procedures for determining acceptable locations may be used if approved by the Administrator.

4.4 Slotted Tube. For COMS that uses a slotted tube, the slotted tube must be of sufficient size and orientation so as not to interfere with the free flow of effluent through the entire optical volume of the COMS photodetector. The manufacturer must also present information in the certificate of conformance that the slotted tube minimizes light reflections. As a minimum, this demonstration shall consist of laboratory operation of the COMS both with, and without the slotted tube in position. The slotted portion must meet the monitoring pathlength requirements of 2.14.3.

5. Design Specifications

5.1 Design Specifications. The COMS shall comply with the following design specifications:

5.1.1 Peak and Mean Spectral Responses. The peak and mean spectral responses must occur between 500 nm and 600 nm. The response at any wavelength below 400 nm or above 700 nm shall be less than 10 percent of the peak spectral response.

5.1.2 Angle of View. The total AOV shall be no greater than 4 degrees.

5.1.3 Angle of Projection. The total AOP shall be no greater than 4 degrees.

5.1.4 Optical Alignment Sight. Each analyzer must provide some method for visually determining that the instrument is optically aligned. The method provided must be capable of clearly indicating that the unit is misaligned when an error of no greater than ± 2 percent opacity occurs due to misalignment at the installation monitoring pathlength. Instruments that are capable of

providing a clear path zero check while in operation on a stack or duct with effluent present, and while maintaining the same optical alignment during measurement and calibration, need not meet this requirement (e.g., some "zero pipe" units). The owner and operator shall insure that the COMS manufacturer's written procedures and the certificate of conformance depict the correct alignment and the misalignment corresponding to a ± 2 percent opacity shift as viewed using the alignment sight.

5.1.5 Simulated Zero and Upscale Calibration System. Each analyzer must include a calibration system for simulating a zero and upscale calibration value. This calibration system must provide, as a minimum, a simultaneous system check of all of the active analyzer internal optics, all active electronic circuitry including the primary light source (lamp) and photodetector assembly, and electro-mechanical systems used during normal measurement operation.

5.1.6 Automatic Zero and Upscale Value Compensation Indicator and Alarm. The COMS shall provide an automated means for determining and recording the actual amount of 24-hour zero compensation on a daily basis. The COMS also shall provide an alarm (visual or audible) when a ± 4 percent opacity zero compensation has been exceeded. This indicator shall be at a location which can be seen or heard by the operator (e.g., process control room) and accessible to the operator (e.g., the data output terminal).

5.1.6.1 During the operational test period, the COMS also must provide a means for determining and automatically recording the actual amount of upscale calibration value compensation at specified 1-hour intervals so that the actual 1-hour upscale calibration value shift can be determined (see section 7.2.3).

5.1.6.2 If the COMS has a feature that provides automatic zero compensation for dirt accumulation on exposed optical and mechanical surfaces, the compensation allowance for dust may be included up to 20 percent opacity. For all other systems, the dirt accumulation on exposed optical and mechanical surfaces are limited to 4 percent opacity zero compensation allowance of section 5.1.6. The determination of dirt accumulation on all surfaces exposed to the effluent being measured shall include only those surfaces in the direct path of the measuring light beam under normal opacity measurement. The dust accumulation must actually be measured.

5.1.7 External Calibration Filter Access. The COMS must be designed to accommodate an independent assessment of the total systems response to audit filters. An adequate design shall permit the use of external (i.e., not intrinsic to the instrument) neutral density filters to assess monitor operation. This system may include an external audit zero-jig as identified in section 3.0.

5.1.8 Pathlength Correction Factor. The COMS shall display and record all opacity values corrected to the emission outlet pathlength. Equations 1-7 or 1-8 may be used. The system must be capable of independent display of the PLCF and

automatically record any changes made to the PLCF.

5.1.9 External Fault Indicator. The installed COMS must provide a means to automatically alert the owner or operator when a component or performance parameter has failed or been exceeded (e.g., projector lamp failure, zero or CD operation, purge air blower failure, data recorder failure). Indicator lights or alarms must be visible or audible to the operator(s).

5.1.10 Data recorder resolution. The data recorder and data acquisition system shall record and display opacity values to 0.5 percent opacity.

TABLE 1-1.—COMS DESIGN SPECIFICATIONS

1. Peak spectral response.
2. Mean spectral response.
3. Angle of view.
4. Angle of projection.
5. Optical alignment sight.
6. Simulated zero and upscale calibration system.
7. Automated zero compensation recording and indicating system.
8. Automated upscale calibration compensation recording and indicating system.
9. External calibration filter access.
10. Pathlength correction factor recording and indicating system.

6. Design Specifications Verification Procedures

These procedures apply to all instruments installed for purposes of complying with opacity monitoring requirements (see section 1.1, Applicability). The source owner or operator is responsible for the overall COMS performance demonstration required by the applicable standards. As an alternative, the COMS manufacturer may conduct the COMS design verification procedures called for in this section and provide to the source owner or operator a Manufacturer's Certificate of Conformance (MCOC). These procedures shall be conducted, detailed, and the results submitted in the MCOC (section 9.5) as an integral part of each COMS demonstration required by the applicable standards. In order to assure that the design and procedures to demonstrate conformance with this section coincide with the design procedures as stated in the MCOC, the manufacturer is encouraged to seek an evaluation by the Administrator of the manufacturer's conformance demonstration practices. The procedures to demonstrate conformance with this section may require modification to accommodate instrument designs. All procedural modifications required to demonstrate conformance with the specifications of this section must be approved, in writing, by the Administrator. The owner and operator or the manufacturer, as appropriate, shall obtain any approvals of modifications to the specifications of this section before regulatory agency review and acceptance of the overall COMS performance evaluations.

Each analyzer design shall be selected as follows, in order to demonstrate conformance with the design specifications of sections

5.1.1 to 5.1.10. The MCOC, section 9.5, for all instruments subject to this specification shall detail the demonstration procedures as follows:

6.1 Selection of Analyzer. For conducting the performance test in sections 6.2 through 6.6, the manufacturer shall randomly select (1) a COMS model from each month's production, or (2) a COMS model with a serial number in a distinct lot of 20 such monitors produced, whichever is more frequent.

6.2 Spectral Response. The owner and operator, or manufacturer, shall conduct a laboratory measurement of the instrument's spectral response curve. The procedures of this laboratory evaluation are subject to approval of the Administrator and shall be provided to the Administrator upon request. The owner and operator or manufacturer, shall measure, develop, and report the effective spectral response curve of the COMS at 10 nm intervals. Determine and report in the MCOC the peak spectral response wavelength, the mean spectral response wavelength using equation 1-9, and the maximum response at any wavelength below 400 nm and above 700 nm expressed as a percentage of the peak response.

6.3 Angle of View. In the laboratory, set up the COMS detector as specified by the manufacturer's written instructions. Draw a circular arc with the center of the circle located at the centroid of a plane described by the COMS photodetector housing which the radiation from the nondirectional light source first encounters. The arc shall have a radius of 3 meters in the horizontal plane of the COMS photodetector housing. Using a small (less than 3 cm) nondirectional light source, measure and record the COMS receiver response as the light is moved at each 5-cm interval on the arc for 30 cm on either side of the COMS detector centerline. Identify the point on the arc furthest from the centerline which corresponds to the point where 2.5 percent of the peak COMS detector response is recorded. Repeat the test in the vertical direction. Then, for both the horizontal and vertical directions, calculate the response of the COMS detector as a function of viewing angle (26 cm of arc with a radius of 3 cm equals 5 degrees), report relative angle of view curves, and determine and report the angle of view.

6.4 Angle of Projection. In the laboratory, set up the COMS light source as specified by the manufacturer's written instructions. Draw a circular arc with the center of the circle located at the centroid of a plane described by the last part of the COMS lamp assembly housing encountered by the light radiation projected from the light assembly. The arc shall have a radius of 3 meters in the horizontal plane of the COMS lamp assembly housing. Using a small (less than 3 cm) photoelectric light detector, measure and record the COMS light intensity as the photoelectric light detector is moved at each 5-cm interval on the arc for 30 cm on either side of the centerline of the light source projection. Repeat the test in the vertical direction.

Then, for both the horizontal and vertical directions, calculate the response of the photoelectric detector as a function of the

projection angle (26 cm of arc with a radius of 3 m equals 5 degrees). Identify the point on the arc furthest from the centerline at which a light intensity of 2.5 percent of the peak light intensity of the COMS light source is recorded, report the relative angle of projection curves, and determine and report the angle of projection.

6.5 Unacceptable Findings. Whenever a manufacturer finds that a COMS model does not conform to any of the requirements of this section, the manufacturer shall notify and provide the findings to all source owners or operators that have received or installed such nonconforming COMS models manufactured after the date of the previous successful conformance demonstration. The manufacturer shall also submit copies of such notifications to the U.S. Environmental Protection Agency, Director, Stationary Source Compliance Division (EN-341W), 401 M Street, S.W., Washington, D.C. 20460.

7. Performance Specifications Verification Procedure

The owner and operator shall perform following procedures and tests on each COMS that conforms to the design specifications (Table 1-1) to determine conformance with the specifications of Table 1-2. The tests described in sections 7.1.1, 7.1.4, and 7.1.5, shall be conducted at the affected facility, in a dust-free environment, before installing the measurement portion of the COMS system on the stack or duct. These tests are to be performed using the entire COMS system, including the data recording component normally used during monitoring.

TABLE 1-2.—PERFORMANCE SPECIFICATIONS

Parameter	Specifications
Calibration error ^a	≤3 percent opacity.
Response time	≤10 seconds.
Operational test period ^b .	336 hours.
Zero drift (24-hour) ^a ..	≤2 percent opacity.
Calibration drift (24-hour).	≤2 percent opacity.
Zero drift (1-hour)	≤2 percent opacity.
Calibration drift (1-hour).	≤2 percent opacity.

^aExpressed as the sum of the absolute value of the mean and the absolute value of the confidence coefficient.

^bDuring the operational test period, the COMS must not require any corrective maintenance, repair, replacement, or adjustment other than that clearly specified as routine and required in the operation and maintenance manuals.

7.1 Preliminary Adjustments and Tests.

7.1.1 Equipment Preparation.

7.1.1.1 Set up and calibrate the COMS for the monitoring pathlength to be used in the installation as specified by the manufacturer's written instructions. For this specification, the monitoring pathlength distance (depth of effluent at the installation location) specified in engineering drawings must be verified. The owner and operator shall, following the manufacturer's instructions, adjust the PLCF signal to yield

opacity results based on the emission outlet pathlength.

7.1.1.2 Under a clear path condition and at the required monitoring pathlength, align the instrument using the optical sight and set the instrument actual zero response. As part of this alignment, include tilting the reflector unit (detector unit for single pass instruments) on its axis until the point of maximum instrument response is obtained. Check and record the instrument alignment with the alignment sight. Deviations in alignment must be rectified prior to proceeding with the following performance tests.

7.1.1.3 Optical Alignment Sight. At the monitoring pathlength, align, zero, and span the instrument. Insert an attenuator of 8 to 15 percent actual opacity into the monitoring pathlength.

7.1.1.3.1 Single Path Monitors. Using the optical alignment site, record and report the visual depiction of alignment prior to misalignment. Slowly misalign the COMS light assembly unit by tilting it in the vertical plane until a ±2 percent opacity shift is obtained by the data recorder. Then, following the manufacturer's written instructions, check the alignment. Misalignment should be clearly discernable. Record and report the visual depiction of misalignment as viewed using the optical alignment sight. Realign the instrument and record the visual depiction of alignment. Repeat this test for lateral misalignment of the light source unit. Realign the instrument and follow the same procedure for checking misalignment of the COMS detector unit.

7.1.1.3.2 Dual Path Monitors. Using the optical alignment site, record and report the visual depiction of alignment prior to misalignment. Slowly misalign the COMS transceiver unit (combined light source and detector unit) by tilting it in the vertical plane until a ±2 percent opacity shift is obtained by the data recorder. Then, following the manufacturer's written instructions, check the alignment. Misalignment should be clearly discernable. Record and report the visual depiction of misalignment as viewed using the optical alignment sight. Realign the COMS and record and report the visual depiction of alignment. Repeat this test for lateral misalignment of the transceiver unit. As an alternative to the lateral misalignment of the transceiver unit, a lateral misalignment of the reflector unit may be performed.

7.1.1.4 Simulated Zero and Calibration Value Check. Adjust, record, and report the COMS zero alignment response so that the simulated zero output equals the COMS actual clear path zero output established for the monitoring pathlength. Measure and record the indicated upscale calibration value. The upscale calibration value reading must be within the required opacity range (see Definition 2.21).

7.1.2 Calibration Attenuator Selection.

7.1.2.1 Based on the required opacity standard, select a minimum of three calibration attenuators (low-, mid-, and high-level) based on the following formulas in Table 1-3:

TABLE 1-3.—REQUIRED CALIBRATION ATTENUATOR VALUES

Low level—20 to 60 percent of the opacity standard.
Mid level—80 to 120 percent of the opacity standard.
High level—150 to 200 percent of the opacity standard.

7.1.2.2 Calculate the attenuator values required to obtain a system response equivalent to the applicable values in the ranges specified in table 1-2 using equation 1-1. Select attenuators having the values closest to those calculated by equation 1-1. A series of filters with actual opacity values relative to the values calculated are commercially available.

$$OP_2 = 1 - \left(1 - OP_1\right) \frac{L_2}{L_1} \quad \text{Eq. 1-1}$$

Where:

OP₁=Nominal opacity value of required low-, mid-, or high-range calibration attenuators.

OP₂=Desired attenuator opacity value from Table 1-2 at the span required by the applicable subpart.

L₁=Monitoring pathlength.

L₂=Emission outlet pathlength.

7.1.3 Attenuator Calibration.

7.1.3.1 Primary Attenuators. Attenuators are designated as primary in one of two ways:

7.1.3.1.1 They are calibrated by NIST; or
7.1.3.1.2 They are calibrated on a 6-month frequency through the assignment of a luminous transmittance value in the following manner:

7.1.3.1.2.1 Use a spectrophotometer meeting the specifications of section 3.6 to calibrate the required filters. The spectrophotometer calibration must be verified through use of a NIST 930D Standard Reference Material (SRM). The SRM 930D consists of three (3) neutral density glass filters and a blank, each mounted in a cuvette. The wavelengths and temperature to be used in the calibration are listed on the NIST certificate that accompanies the reported values. Determine and record a transmittance of the SRM values at the NIST wavelengths (three filters at five wavelengths each for a total of 15 determinations). A percent difference shall be calculated between the NIST certified values and the spectrophotometer response. At least 12 of the 15 differences (in percent) shall be within ±0.5 percent of the NIST SRM values. No one value shall have a difference of ±1.0 percent. Failure to achieve these criteria identifies a need to recalibrate the SRM or service the spectrophotometer.

7.1.3.1.2.2 Scan the filter to be tested and the NIST blank from wavelength 380 to 780 nm, and record the spectrophotometer percent transmittance responses at 10 nm intervals. The sequence of testing is: blank filter, tested filter, tested filter rotated 90 degrees in the plane of the filter, blank filter. Calculate the average transmittance at each 10 nm interval. If any pair of the tested filter transmittance values (for the same filter and

wavelength) differ by more than ± 0.25 percent, rescan the tested filter. Failure to achieve this tolerance shall prevent the use of the filter in the calibration tests of the COMS.

7.1.3.1.2.3 Correct the tested filter transmittance values by dividing the average tested filter transmittance by the average blank filter transmittance at each 10 nm interval.

7.1.3.1.2.4 Calculate the weighted tested filter transmittance by multiplying the transmittance value by the corresponding response factor shown in table 1-4, to obtain the Source C Human Eye Response.

TABLE 1-4—SOURCE C, HUMAN EYE RESPONSE FACTOR

Wavelength nanometers	Weighting factor ^a	Wavelength nanometers	Weighting factor ^a
380	0	590	6627
390	0	600	5316
400	2	610	4176
410	9	620	3153
420	37	630	2190
430	122	640	1443
440	262	650	886
450	443	660	504
460	694	670	259
470	1058	680	134
480	1618	690	62
490	2358	700	29
500	3401	720	14
510	4833	720	6
520	6462	730	3
530	7934	740	2
540	9194	750	1
550	9832	760	1
560	9841	770	0
570	9147	780	0
580	7992		0

^aTotal of weighting factors=100,000.

7.1.3.1.2.5 Calculate, record and report the luminous transmittance value of the filter as follows:

$$LT = \frac{\sum_{i=300nm}^{i=800nm} T_i}{100,000} \quad \text{Eq. 1-2}$$

Where:

LT=Luminous transmittance

T_i=Weighted tested filter transmittance.

7.1.3.1.3 Recalibrate the Primary Attenuators Used for the Required Calibration Error Test Quarterly. Recalibrates semi-annually if the primary attenuators are used only for quarterly calibration of secondary attenuators.

7.1.3.2 Secondary Attenuators. Calibrate the secondary attenuators, if used to conduct COMS calibration error tests, monthly. The filter calibration may be conducted using a laboratory-based transmissometer calibrated as follows:

7.1.3.2.1 Use at least three primary filters of nominal luminous transmittance 50, 70 and 90 percent, calibrated as specified in section 7.1.3.1, to calibrate the laboratory-based transmissometer. Using linear regression through zero opacity, determine and record the slope of the calibration line. The slope of the calibration line shall be between 0.99 and 1.01, and the laboratory-based transmissometer reading for each primary filter shall not deviate by more than ± 2 percent from the exact linear regression line. If the calibration of the laboratory-based transmissometer yields a slope or individual readings outside the specified ranges, secondary filter calibrations shall not be performed. Determine the source of the

variations (either transmissometer performance or changes in the primary filters) and repeat the transmissometer calibration before proceeding with the attenuator calibration.

7.1.3.2.2 Immediately following the laboratory-based transmissometer calibration, insert the secondary attenuators and determine and record the percent effective opacity value per secondary attenuator from the calibration curve (linear regression line).

7.1.4 Calibration Error Test. Insert the calibration attenuators (low-, mid-, and high-level) into the light path between the transceiver and reflector (or transmitter and receiver) at a point where the effluent will be measured; i.e., do not place the calibration attenuator in the instrument housing. While inserting the attenuator, assure that the entire beam received by the detector will pass through the attenuator and that the attenuator is inserted in a manner which minimizes interference from the reflected light. The placement and removal of the attenuator shall be such that an integrated measurement of opacity is conducted over the averaging time of the standard found in the applicable subpart. Make a total of five nonconsecutive readings for each filter using the data recording system to be used at the installation. Record the monitoring system output readings in percent opacity on the data sheet (see example figure 1-6). Subtract the "path adjusted" calibration attenuator values from the measurement system recorder responses (the "path adjusted" calibration attenuator values are calculated using equation 1-7 or 1-8). Calculate the arithmetic mean difference, standard deviation, and confidence coefficient of the five tests at each attenuator value using equations 1-3, 1-4, and 1-5 (sections 8.1 to

8.3). Calculate the sum of the absolute value of the mean difference and the absolute value of the confidence coefficient for each of the three test attenuators. Report these three values as the calibration error.

7.1.5 System Response Test. Using the high-range calibration attenuator, alternately insert the filter five times and remove it from the transmissometer light path. For each filter insertion and removal, record the amount of time required for the COMS to display on the primary data recorder 95 percent of the final step change in opacity. Specifically, for a filter insertion, the owner or operator shall record the time it takes to reach 95 percent of the final, steady upscale reading; for filter removal, the time it takes for the display reading to fall to 5 percent of the initial upscale opacity reading (see example figure 1-7). Calculate the mean time of the five upscale and five downscale tests. Report the greater value as the COMS response time.

7.1.6 Data Recorder Resolution. Review the output from the calibration error test; the COMS data recorder shall provide output capable of being resolved into 0.5 percent opacity increments.

7.2 Preliminary Field Adjustments. Install the COMS on the affected facility according to the manufacturer's written instructions and the specifications in section 4, and perform the following preliminary adjustments:

7.2.1 Optical and Zero Alignment. When the facility is not in operation, optically align the light beam of the transmissometer upon the optical surface located across the duct or stack (i.e., the reflector or photodetector, as applicable) in accordance with the manufacturer's instructions; verify the alignment with the optical alignment sight. Under clear stack conditions, verify the zero

alignment (performed in section 7.1.1) by assuring that the monitoring system zero response for the installation zero check coincides with the instrument actual zero measured by the COMS as set for the monitor pathlength prior to installation. Record these values. Adjust the instrument actual zero response, if necessary, and only if a clear stack condition exists. Then, after the affected facility has been started up and the effluent stream reaches normal operating temperature, recheck the optical alignment. If the optical alignment has shifted, realign the optics. *Note:* Careful consideration should be given to whether a "clear stack" condition exists. The stack shall be monitored and the data output (instantaneous real-time basis) examined to determine whether fluctuations from zero opacity are occurring before a clear stack condition is assumed to exist. Check and record the upscale calibration value.

7.2.2 Optical and Zero Alignment (Alternative Procedure). The procedure given in section 7.2.1 is the preferred procedure and should be used whenever possible. However, if the facility is operating and a zero stack condition cannot practically be obtained, use the zero alignment obtained during the preliminary adjustments (section 7.1.1.2) before installing the COMS on the stack. After completing all the preliminary adjustments and tests required in section 7.1, install the system at the source and align the optics, i.e., align the light beam from the transmissometer upon the optical surface located across the duct or stack in accordance with the manufacturer's instruction. Verify the alignment with the optical alignment sight. The zero alignment conducted in this manner must be verified and adjusted, if necessary, the first time a clear stack condition is obtained after the operation test period has been completed.

7.3 Operational Test Period. Prior to conducting the operational testing, the owner and operator, or the manufacturer as appropriate, should have successfully completed all prior testing of the COMS. After completing all preliminary field adjustments (section 7.2), operate the COMS for an initial 336-hour test period while the source is operating. Except during times of instrument zero and upscale calibration checks, the owner and operator must ensure that they analyze the effluent gas for opacity and produce a permanent record of the COMS output. During this period, the owner and operator may not perform unscheduled maintenance, repair, or adjustment. The owner or operator may perform zero and calibration adjustments, exposed optical and other CEMS surface cleaning, and optical realignment only at 24-hour intervals. Automatic zero and calibration adjustments, made by the COMS without operator intervention or initiation, are allowable at any time. During the operational test period, record all adjustments, realignments, and exposed surface cleaning. At the end of the operational test period, verify and record that the COMS optical alignment is correct. If the operational test period is interrupted because of source breakdown, continue the 336-hour period following resumption of source operation. If the test period is interrupted because of COMS failure, record the time

when the failure occurred, after the failure is corrected, the 336-hour period and tests are restarted. During the operational test period, perform the following test procedures:

7.3.1 Zero Calibration Drift Test. At the outset of the 336-hour operational test period and at each 24-hour period, record the initial (Reference A) zero calibration value and upscale calibration value (UC Value), see example format figure 1-8. These values are the initial 336-hour value established during the optical and zero alignment procedure (see section 7.2.1). After each 24-hour interval, check and record the COMS zero response reading before any cleaning and adjustment. Perform the zero and upscale calibration adjustments, exposed optical and other instrument surface cleaning, and optical realignment only at 24-hour intervals (or at such shorter intervals as the manufacturer's written instructions specify). If shorter intervals of zero and span adjustment are conducted, record the drift adjustment. However, adjustments and cleaning must be performed when the accumulated zero calibration or upscale CD exceeds the 24-hour drift specification (± 2 percent opacity). From the initial and final zero readings, calculate the zero drift for each 24-hour period. Then, calculate the arithmetic mean, standard deviation, and confidence coefficient of the 24-hour zero drift and the 95 percent confidence interval using equations 1-3, 1-4, and 1-5. Calculate the sum of the absolute value of the mean and the absolute value of the confidence coefficient, and report this value as the 24-hour zero drift. At the conclusion of the 336-hour operational test period, record and report the 336-hour accumulated drift.

7.3.2 Upscale Calibration Drift Test. At each 24-hour interval, after the zero calibration value has been checked and any optional or required adjustments have been made, check and record the COMS response to the upscale calibration value established under the optical and zero alignment procedure of section 7.2.1. The upscale calibration value established in section 7.2.1 shall be used each 24-hour period. From the initial and final upscale readings, calculate the upscale calibration value drift for each 24-hour period. Then, calculate the arithmetic mean, standard deviation, and confidence coefficient of the 24-hour CD and the 95 percent confidence interval using equations 1-3, 1-4, and 1-5. Calculate the sum of the absolute value of the mean and the absolute value of the confidence coefficient, and report this value as the 24-hour calibration value drift. At the conclusion of the 336-hour operational test period, record and report the 336-hour accumulated drift.

7.3.3 Calibration Stability Test. Immediately following or during the operational test period, conduct a calibration stability test over a 24-hour period. During this period, there will be no unscheduled maintenance, repair, adjustment, zero and calibration adjustments, exposed optical and other instrument surface cleaning, or optical realignment performed. Record the initial zero and upscale calibration opacity values and operate the monitor in a normal manner. After each 1-hour period, record the monitor

adjusted zero and upscale opacity values. Subtract the initial zero and upscale calibration values from each 1-hour adjusted value and record the difference. None of these differences shall exceed +2 percent opacity. Figure 1-8 may be used for the recording of the results of this test.

7.3.4 Retesting. If the COMS fails to meet the specifications for the tests conducted under the operational test period, make the necessary corrections and restart the operational test period. Depending on the correction made, it may be necessary to repeat some or all design and other preliminary tests.

8. Equations

8.1 Arithmetic Mean. Calculate the mean of a set of data as follows:

where:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n x_i \quad \text{Eq. 1-3}$$

n = Number of data points.

$\sum x_i$ = Algebraic sum of the individual measurements, x_i , $i=1$

8.2 Standard Deviation. Calculate the standard deviation S_d as follows:

$$S_d = \sqrt{\frac{\sum_{i=1}^n x_i^2 - \frac{(\sum_{i=1}^n x_i)^2}{n}}{n-1}} \quad \text{Eq. 1-4}$$

8.3 Confidence Coefficient. Calculate the 2.5 percent error confidence coefficient (one-tailed), CC, as follows:

$$CC = \frac{t_{0.975} S_d}{\sqrt{n}} \quad \text{Eq. 1-5}$$

Where:

$t_{0.975}$ = t -value (see table 1-5).

8.4 Error. Calculate the error (i.e., calibration error, zero drift, and CD), Er , as follows:

$$Er = |\bar{x}| + |CC| \quad \text{Eq. 1-6}$$

TABLE 1-5.— T -VALUES

n^a	0.975
2	12.706
3	4.303
4	3.182
5	2.776
6	2.571
7	2.447
8	2.365
9	2.306
10	2.262
11	2.228
12	2.201
13	2.179
14	2.160
15	2.145

TABLE 1-5.—T-VALUES—Continued

n ^a	t _{0.975}
16	2.131

^aThe values in this table are already corrected for n-1 degrees of freedom. Use n equal to the number of individual values.

8.5 Conversion of Opacity Values for Monitor Pathlength to Emission Outlet Pathlength. When the monitor pathlength is different from the emission outlet pathlength, use either of the following equations to convert from one basis to the other (this conversion may be automatically calculated by the monitoring system):

$$\log(1 - Op_2) = \frac{L_2}{L_1} \log(1 - Op_1) \quad \text{Eq. 1-7}$$

$$D_2 = \frac{L_2}{L_1} \times D_1 \quad \text{Eq. 1-8}$$

Where:

Op₁ = Opacity of the effluent based upon L₁.
Op₂ = Opacity of the effluent based upon L₂.
L₁ = Monitor pathlength.
L₂ = Emission outlet pathlength.
OD₁ = Optical density of the effluent based upon L₁.
OD₂ = Optical density of the effluent based upon L₂.

8.6 Mean Response Wavelength. Calculate the mean of the effective spectral response curve from the individual responses, g_i, at the wavelength values, L_i, as follows:

$$L_i = \frac{\sum_{i=1}^n L_i g_i}{\sum_{i=1}^n g_i} \quad \text{Eq. 1-9}$$

Where:

L_i = The wavelength at which the response g_i is calculated at 20 nm intervals.
g_i = The value of the response at L_i.

9. Reporting

Report the following (summarize in tabular form where appropriate):

- 9.1 General Information.
 - a. Facility being monitored.
 - b. Person(s) responsible for operational and conditioning test periods and affiliation.
 - c. Instrument manufacturer.
 - d. Instrument model number.
 - e. Instrument serial number.
 - f. Month/year manufactured.
 - g. Schematic of monitoring system measurement path location.
 - h. System span value, percent opacity.
 - i. Emission outlet pathlength, meters.
 - j. Monitoring pathlength, meters.
 - k. System span value, percent opacity.
 - l. Upscale calibration value, percent opacity.
 - m. Calibrated attenuator values (low-, mid-, and high-range), percent opacity.
- 9.2 Design Specification Test Results.

- a. Peak spectral response, nm.
- b. Mean spectral response, nm.
- c. Response above 700 nm, percent of peak.
- d. Response below 400 nm, percent of peak.
- e. Total angle of view, degrees.
- f. Total angle of projection, degrees.
- g. Serial number, month/year of manufacturer for unit actually tested to show design conformance.

9.3 Performance Specification Test Results.

a. Results of optical alignment sight test (if required; see section 7.1.1.3). The owner and operator shall, in the testing report, include diagrams indicating the operator's view through the optical alignment system as depicted during the alignment tests specified in section 7.1.1.3.

b. Attenuator Calibration. Provide documentation demonstrating compliance with the requirements for the calibration of primary attenuators (see section 7.1.3.1). If secondary attenuators (see section 7.1.3.2) are used, provide documentation listing the calibration results for the laboratory-based transmissometer, dates of the latest secondary filter calibrations, and the results of the secondary filter calibrations. When the primary filter calibration of section 7.1.3.1 is conducted by the filter manufacturer or by an independent laboratory, the owner or operator shall include in the report a statement, from the filter calibration laboratory or manufacturer, certifying the filter luminous transmittance values and that the procedures of section 7.1.3.1 have been followed.

c. Calibration Error Test.

(1) Report the required upscale opacity range and indicated upscale opacity calibration value, as determined in section 7.1.1.4.

(2) Identify the low-, mid-, and high-level calibration opacities, as determined in section 7.1.2.1.

(3) Present the data and results of the calibration error test in the format of figure 1-6; all information required by figure 1-6 shall be supplied.

d. System Response Test. Present the data and results of the system response test in the format of figure 1-7.

e. Zero and Calibration Drift (CD) Tests. In the format of figure 1-8:

- i. Identify the 24-hour zero drift, percent opacity.
- ii. Identify the 24-hour CD, percent opacity.
- iii. Identify any lens cleaning, clock time.
- iv. Identify all optical alignment adjustments, clock time.

9.4 Statements Provide a statement that the operational test period was completed according to the requirements of section 7.2. In this statement, include the time periods during which the operational test period was conducted.

9.5 Manufacturer's Certificate of Conformance (MCOC). The MCOC must include the results of each test performed for the COMS(s) sampled under section 6.1. The MCOC also shall specify the date of testing according to sections 6.2 through 6.4, the COMS monitor type, serial number, and the intended installation and purchaser of the

tested COMS. Section 9.5.1 identifies the minimally acceptable information to be submitted by the manufacturer with the certification of conformance.

9.5.1 Outline of Certificate of Conformance.

a. Instrument Description and Summary of Test Results. The manufacturer shall supply the results of section 6 tests (spectral response curve measurement information, angle of view, angle of projection).

b. Test Procedures. The manufacturer shall supply a complete description of the test equipment, procedures, and calculations used in obtaining the results listed in Part I of the certificate. Any procedures not conforming to those specified in section 6 or 7, must be clearly noted. Required supporting documentation for each test (listed below) and any necessary letters demonstrating approval of the alternate procedure by the Administrator shall appear in the appropriate section of Part III.

c. Supporting Documentation. Include here any information, besides the procedural descriptions of Part II, which is necessary for verification of compliance with sections 5 and 6. In each section, provide letters demonstrating approval of the alternate procedures listed in Part II, if necessary.

(1) Spectral Response. Provide the date of testing, measurement data, and results of the latest calibration performed on the instrument used in the measurement.

(2) Angle of View. Include the results of testing. Provide letters demonstrating approval of alternate methods, if necessary.

(3) Angle of Projection. Include the results of testing. Provide letters demonstrating approval of alternate methods, if necessary.

(4) Verification of Compliance with Additional Design Specifications. The owner and operator or manufacturer shall provide diagrams and operational descriptions of the instrument which demonstrate conformance with the requirements of sections 5.1.5, 5.1.7, 5.1.8, 5.1.9, and 5.1.10.

9.6 Appendix. Provide the data tabulations and calculations for any of the above demonstrations.

10. Bibliography

1. Experimental Statistics. Department of Commerce, National Bureau of Standards Handbook 91. Paragraph 3-3.1.4. 1963. 3-31 p.
2. Performance Specifications for Stationary Source Monitoring Systems for Gases and Visible Emissions, EPA-650/2-74-013, January 1974, U.S. Environmental Protection Agency, Research Triangle Park, NC.
3. Koontz, E.C., Walton, J. Quality Assurance Programs for Visible Emission Evaluations. Tennessee Division of Air Pollution Control. Nashville, TN. 78th Meeting of the Air Pollution Control Association. Detroit, MI. June 16-21, 1985.
4. Evaluation of Opacity CEMS Reliability and Quality Assurance Procedures. Volume 1. U.S. Environmental Protection Agency. Research Triangle Park, NC. EPA-340/1-86-009a.
5. Nimeroff, I. "Colorimetry Precision Measurement and Calibration." NBS Special Publication 300. Volume 9. June 1972.

6. Technical Assistance Document: Performance Audit Procedures for Opacity Monitors. U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA-600/8-87-025. April 1987.

[FR Doc. 94-28973 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 94-104; Notice 1]

49 CFR Part 571

RIN 2127-AF45

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to the Federal motor vehicle standard on lighting to allow the photometric conformance of center highmounted stop lamps to be determined by a grouping of test points. Such an action would be consistent with the agency's requirements for other lamps and would lessen the testing burden for manufacturers. This action is taken in implementation of a grant of a petition for rulemaking.

DATES: The due date for comments is January 24, 1995. The amendments would be effective 30 days after publication of the final rule in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA (202-366-5280).

SUPPLEMENTARY INFORMATION: Dennis Moore of Livermore, California, has petitioned for rulemaking to amend Standard No. 108 to allow "a 'Zonal' approach * * * for Compliance Photometric Testing of 3rd Brake Lights which has already been adopted for Tail Lights, Regular Brake Lights and Turn Signals." Under S5.1.1.6 of Standard No. 108, taillamps and parking lamps need not meet the minimum photometric values specified for each of the test points of the relevant SAE Standards incorporated by reference, provided that the sum of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c. In addition, the more recent SAE Standards for stop lamps and turn signal lamps that have been incorporated into Standard No. 108 no longer specify values for

individual test points (though including them as photometric design guidelines). Instead, they specify required values for "zones" only.

In contrast, the applicable photometric values for center highmounted stop lamps (CHMSLs) are those of Figure 10 of Standard No. 108 and are for individual test points. Moore views this as an anomaly. He believes that laboratory test results vary so greatly that CHMSLs must be redesigned to ensure compliance at each test point. As a result, they draw more power and have a shorter life expectancy. He argues that because CHMSL bulbs burn out faster "and are generally located in an area that is inconvenient," they are not replaced.

NHTSA has granted Mr. Moore's petition and is implementing it through this proposal. While the agency has no information that indicates the present requirement results in shorter bulb life and failure to replace bulbs, it is sympathetic to his position that photometric compliance for all stop lamps, including CHMSLs, should be determined on the same basis, as the agency already allows the zonal method of determining compliance for stop lamps other than CHMSLs. The agency tentatively concludes that there is no reason why this approach should not be extended to CHMSLs as well. As with other lamps, adoption of the zonal method will enable compliance to be judged on the sum of the candela at the test point within a zone (i.e., the overall light output of a zone) rather than on the basis of whether each individual test point meets the prescribed minimum. This will not derogate from safety, and should make it easier for manufacturers to design and test lamps that meet Standard No. 108.

In implementation of the grant of the petition, this notice proposes a revised Figure 10 which would establish zonal photometrics that are the sums of the minimum current photometric test point values.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Effective Date

The effective date of the final rule would be December 27, 1994. Because the final rule establishes no additional burden on any party, it is hereby tentatively found for good cause shown that an effective date for the amendments to Standard No. 108 that is earlier than 180 days after their issuance would be in the public interest.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has not been reviewed under Executive Order 12866 (NRM: We are submitting this notice to OST/OMB for determination of significance.) It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to simplify compliance with Standard No. 108. Since the rule does not have any significant cost or other impacts,

preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. The design and composition of center high-mounted stop lamps would not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and stop lamps, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and

governmental jurisdictions would not be significantly affected because the price of new vehicles and stop lamps would not be impacted.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

A final rule based on this proposal would not have any retroactive effect. Under 49 U.S.C. 30103 (formerly section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30163 (formerly 15 U.S.C. 1394) sets forth a procedure for judicial review of final

rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 30111, 30115, 30162; delegation of authority at 49 CFR 1.50.

2. Section 571.108 would be amended by revising Figure 10 as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108 lamps, reflective devices, and associated equipment.

* * * * *

FIGURE 10.—PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP LAMPS

Individual test points	Minimum intensity (candela)	Zones (test points within zones, see note 2)	Minimum total for zone (candela)
10U-10L	8	Zone I (5U-V, H-5L, H-V, H-5R, 5D-V)	125
-V	16		
-10R	8	Zone II (5U-5R, 5U-10R, H-10R, 5D-10R, 5D-5R)	98
5U-10L	16		
-5L	25		
-V	25		
-5R	25		
-10R	16	Zone III (5U-5L, 5U-10L, H-10L, 5-10L, 5D-5L)	98
5D-10L	16		
-5L	25		
-V	25		
-5R	25		
-10R	16	Zone IV (10U-10L, 10U-V, 10U-10R)	32
H-10L	16		
-5L	25		
-V	25		
-5R	25		
-10R	16		
See note 1	Maximum intensity (candela) 160		

Note 1: The listed maximum shall not occur over any area larger than that generated by a 1/4 degree radius within a solid cone angle within the rectangle bounded by test points 10U-10L, 10U-10R, 5D-10L, and 5D-10R.

Note 2: The measured values at each test point shall not be less than 60% of the value listed.

* * * * *
 Issued on: November 18, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94-29053 Filed 11-23-94; 8:45 am]

BILLING CODE 4910-59-P-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC04

Endangered and Threatened Wildlife and Plants; Notice of 6-Month Extension and Reopening of the Public Comment Period on the Proposed Rule to List *Coccoloba rugosa* as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 6-month extension and reopening of comment period on proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) extends for not more than 6 months the time to make a decision on its proposal to list the *Coccoloba rugosa* (ortegón). On September 24, 1993, the Service proposed to determine threatened status for *Coccoloba rugosa* under the Endangered Species Act of 1973, as amended (Act). The Act requires the Service to make final determination on such proposals within 12 months, but provides for a 6-month extension if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to that determination. The Service finds that there is substantial disagreement concerning the sufficiency of the available population data and, therefore, extends the deadline with respect to the decision to list *Coccoloba rugosa*.

DATES: The deadline for final action on the proposal is now March 24, 1995. The public comment period is reopened until January 24, 1995.

ADDRESSES: Comments and materials should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, Box 491, Boquerón, Puerto Rico 00622.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan R. Silander at the Caribbean Field Office (see ADDRESSES section) (809/851-7297).

SUPPLEMENTARY INFORMATION:

Background

Although there are no records available concerning when *Coccoloba rugosa* was first discovered, it is known that it was widely cultivated in European botanical gardens during the nineteenth century (Proctor, pers. comm.). The species was named in 1815 and described in 1829 by the French botanist René Louiche Desfontaines from a cultivated specimen at the Botanical Garden of Paris (Little et al. 1974). This plant was reported from St. Thomas more than a century ago, but it is a doubtful record (Proctor, pers. comm.).

Coccoloba rugosa is a small evergreen tree 9 meters (30 feet) tall with a diameter of approximately 12.5 centimeters (5 inches). The bark is brown or gray and fissured, with faint rings at the nodes. The green twigs are stout, slightly flattened with longitudinal ridges. The alternate stalkless leaves are 22-60 centimeters (9-24 inches) wide, very thick, brittle, and hairless. The leaf surface is rugose, with veins deeply sunken on the upper side and prominent beneath. At the base of each leaf is a large sheath (ocrea) measuring 4-6 centimeters (1.5-2.5 inches) long. Inflorescences are terminal, 30-75 centimeters (1-2.5 feet) long with numerous small crimson-colored flowers. Male and female flowers are borne on different trees (dioecious). The red ovoid fruits are about 1 centimeter (.4 inch) long with one brown, pointed, 3-angled seed that is .5 centimeter (.2 inch) long.

When the proposed rule was published (September 24, 1993; 58 FR 49960), the most recent available information indicated that *Coccoloba rugosa* was known from fewer than 1000 individuals at 14 sites in the subtropical moist forests of northern and eastern Puerto Rico. A population known from the west of the San José lagoon was destroyed some years ago (Little et al. 1974). The remaining populations are variously threatened by urban, industrial and tourist development, forest management practices, and the expansion of existing military installations.

All comments received in response to the proposed rule published on September 24, 1993, supported the designation of *Coccoloba rugosa* as threatened. Nevertheless, on June 21, 1994, the Service received a letter from Vinson & Elkins, attorneys for the Palmas del Mar Properties, Inc., that provided additional information on both the distribution and abundance of

Coccoloba rugosa. The Service is currently conducting field verification of this new information, which indicates there are at least 19 additional sites containing at least 4,000 individuals.

Section 4(b)(6) of the Act requires the Service to take one of three alternative actions within 1 year of a listing proposal: (1) Publish a final regulation listing the species; (2) Publish a notice that the listing proposal is being withdrawn, or (3) Publish a notice that the 1-year time period is being extended under section 4(b)(6). That section as implemented by regulations at 50 CFR 424.17(a)(1)(iv), provides that the Service may extend the 1-year period for up to 6 months upon finding that "there is a substantial disagreement among scientists knowledgeable about the species concerned" on whether to list the species.

The Act provides in section 4(b)(1)(A) that a determination to list a species shall be made on the best available scientific and commercial information. The Act's information standard requires that the best available information must support a conclusion that a species meets the Act's definition for threatened or endangered status after consideration of the five factors discussed in Section 4(a)(1). The Service finds there is substantial disagreement with regard to the population status of *Coccoloba rugosa*, and, therefore, extends until March 31, 1995, the period within which to make a final listing determination on this species. The Service solicits additional data on the status of *Coccoloba rugosa* until January 24, 1995.

References Cited

- Little, E.L., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands. Second volume. U.S. Department of Agriculture Handbook No. 449. Washington, D.C. 1024 pp.

Author

The primary author of this notice is Ms. Susan R. Silander (see ADDRESSES section), (809/851-7297).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Dated: September 14, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94-29070 Filed 11-23-94; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 59, No. 226

Friday, November 25, 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

Forms Under Review by Office of Management and Budget

November 18, 1994.

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

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

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

Revision

- Agricultural Marketing Service
- Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West-Marketing Order 985
- FV-57, FV-58, FV-60, FV-63, and FV-63A
- Recordkeeping; On occasion; Biennially
- Farms; Businesses or other for-profit; 1,620 responses; 195 hours
- Teresa L. Hutchinson (503) 326-2724

Extension

- Agricultural Marketing Service

- Walnut Grown in California Marketing Order No. 984
- FV-124, FV-125, FV-126, FV-127, FV-127A&B
- Recordkeeping; Monthly; Annually
- Farms; Businesses or other for-profit; Small businesses or organizations; 5,699 responses; 1,400 hours
- Shoshana Avrishon (202) 720-3610
- Agricultural Marketing Service
- Apricots Grown in Designated Counties in Washington-Marketing Order No. 922
- FV-150, FV-151, FV-151A, FV-152
- Recordkeeping; On occasion; Biennially
- Farms; Businesses or other for-profit; 161 responses; 41 hours
- Teresa L. Hutchinson (503) 326-2724

New Collection

- Food and Nutrition Service
- State Administrative Cost Study
- One-time data collection
- State or local governments; 76 responses; 532 hours
- John Endahl (703) 305-2122
- National Agricultural Statistics Service
- Wildlife Damage Control Survey
- One-time survey
- Farms; 15,000 responses; 2,500 hours
- Larry Gambrell (202) 720-5778

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 94-29000 Filed 11-23-94; 8:45 am]

BILLING CODE 3410-01-M

UNITED STATES INFORMATION AGENCY

Social Science Curriculum Development at Selected Central European Universities

ACTION: Notice; Request for Proposals.

SUMMARY: The Advising, Teaching, and Specialized Programs Division of the Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public or private non-profit organizations meeting the provisions described in IRS regulation 501(c)(3) may apply to cooperate with USIA in the administration of Year One of a three to five-year project to support the development of instruction in the social sciences, especially political science

and public policy analysis, at universities in Hungary, Poland, and Romania. The primary departments participating in the project are the Center for Public Affairs Studies at the Budapest University of Economic Sciences, Hungary; the Institute of Sociology at Warsaw University, Poland; and the Department of Political Science at Babes-Bolyai University in Cluj-Napoca, Romania. In addition to supporting the development of programs at these core departments, the project will also enable scholars and students from other institutions in the region to participate in the programs to be based primarily in Warsaw, Budapest, and Cluj-Napoca. The project to be funded in Year One of this program may be implemented over a two-year period and will assist in the development and teaching of up-to-date Western university-level social science curricula.

The rationale for the project is based on the expectation that after the students and faculty involved with this project are equipped to analyze social, political, and public policy issues in an empirically grounded manner, empirical research methods and analytical tools will increasingly inform public debate about these issues, and will encourage cooperation among scholars and public servants.

The USIA solicits detailed proposals from U.S. educational institutions and public and private non-profit organizations to develop and administer a comprehensive range of exchange mechanisms and related activities, including assistance with curriculum and materials development and acquisition, and to identify and cooperate with appropriate U.S. departments and scholars in support of the project. The award to cooperate with the USIA on Year One of the project will be renewable for up to two additional fiscal years that may comprise up to four additional program years upon successful completion of Year One activity. Applicants should propose detailed, creative programs for all three countries for Year One of the project and should outline a strategy for the on-going assessment of Year One programs to determine program effectiveness and to facilitate the definition of programs for two additional fiscal years. The cooperation with USIA will include regular consultation with USIA and

USIS field posts with regard to program implementation, direction, and assessment. Proposals should demonstrate both an understanding of the issues confronting central European universities and expertise in the teaching and practice of the social sciences in U.S. higher education, including graduate education.

The funding authority for the program cited above is provided through the Support for East European Democracies Act (SEED). Programs and projects must conform with Agency requirements and guidelines outlined in the Application Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT NAME AND NUMBER: All communications with USIA concerning this announcement should refer to the above title and reference number E/AS-95-01.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC, time on Friday, January 20, 1995. Faxed documents will not be accepted, nor will documents postmarked by January 20 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

FOR FURTHER INFORMATION CONTACT: Office of Academic Programs, Advising, Teaching, and Specialized Programs Division, E/AS (room 256), U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, telephone number: 202-619-6038, telefax number: 202-619-6790, e-mail:

phiemstr@usia.gov, to request an Application Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify USIA Academic Exchange Specialist Paul Hiemstra on all inquiries and correspondences. Interested applicants should read the complete Federal Register announcement before addressing inquiries to the Advising, Teaching, and Specialized Programs Division (Dr. Hiemstra) or submitting their proposals.

ADDRESSES: Applicants must follow all instructions given in the Application Package and send only complete applications to: U.S. Information Agency, Ref.: E/AS-95-01, Office of Grants Management, E/XE, room 336, 301 4th Street, SW., Washington, DC 20547.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a nonpolitical character and should be balanced and representative of the diversity of

American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including but not limited to race, gender, religion, geographic location, socioeconomic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle.

Academic programs under the authority of the Bureau must maintain their scholarly integrity.

Overview

The goal of the project is to assist the Center for Public Affairs Studies at the Budapest University of Economic Sciences, the Institute of Sociology at Warsaw University, the Department of Political Science at Babes-Bolyai University, and social science departments at other universities in the region to develop up-to-date curricula, revise existing curricula, establish new courses, and develop and utilize new teaching methodologies and materials in local languages. In addition to a common emphasis on public policy analysis, the program at Warsaw University will also include empirically based approaches to the study of industrial relations, while at Babes-Bolyai University the program will also include the study of comparative politics and other aspects of political science.

The curricular development at all three departments will emphasize empirical methods and will enable faculty and students to gain experience with the tools for analyzing social, political, and public policy issues empirically. At the conclusion of the project, the faculty at participating departments should be capable of teaching the newly introduced or revised courses with appropriate teaching materials and should be able to participate more fully in international scholarly dialogue in their respective disciplines. Students graduating from the participating departments should be prepared to assume responsibilities in public service, education, and the private sector with the expertise required to plan and evaluate programs responsibly.

Participants

The project is designed for the following participants: faculty and students associated with the departments identified for primary support; faculty and students from other institutions in the region; and postdoctoral specialists from the U.S. who are qualified to train the central European faculty and students (applicant organizations do not need to

obtain letters of commitment from the primary foreign institutions, which have indicated their interest and commitment directly to USIA). The primary departments are:

(a) Budapest University of Economics, Center for Public Affairs Studies, to assist in developing the Center's program for students specializing in empirically based public policy analysis;

(b) Warsaw University, Institute of Sociology, to develop programs of instruction in empirically based approaches to industrial relations and public policy analysis;

(c) Babes-Bolyai University, Faculty of History and Philosophy, to develop a department of political science emphasizing empirical methods, public policy analysis, and comparative politics.

(d) In addition, funds are available to enable the participation of faculty and students from other institutions in Poland, Hungary, and Romania in programs offered in cooperation with the three core universities.

Logistics

The recipient organization will be responsible for most arrangements associated with this program. These include providing international and domestic travel arrangements for all participants, making lodging and local transportation arrangements for visitors, orienting and debriefing participants, preparing any necessary support material, and working with the foreign participating universities, U.S. host institutions and individual grantees to achieve maximum program effectiveness.

Visa/Insurance/Tax Requirements

U.S. lecturers and consultants participating in the project must be U.S. citizens. Programs must comply with J-1 visa regulations. Please refer to program specific guidelines in Application Package for further details. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Program Description

Exchange and non-exchange activities should complement and reinforce one another within and among the primary supported departments and at other institutions in Hungary, Poland, and Romania. The ability to coordinate and evaluate exchange mechanisms and other activities to support the goal of

faculty and curriculum development in the primary departments and at other institutions will be critical to the success of the project.

The program description detailed in this Request for Proposals is for Year One of the project. The grantee organization will cooperate with USIA, U.S. Information Service (ISIS) field posts, and participating departments in defining the program mixture for two additional fiscal years' funding on the basis of formative program evaluations and assessments. The following mechanisms will be utilized in Year One:

(a) Approximately twelve junior faculty development grants, to bring faculty to the U.S. for programs of six weeks to one semester to develop new courses under the supervision of faculty members at leading U.S. departments in appropriate fields;

(b) Approximately three senior lectureships, to send senior U.S. specialists for programs of approximately one semester to teach courses, advise faculty, and assess program developments;

(c) Approximately four junior lectureships, to send recent graduates of leading U.S. doctoral programs for programs of approximately two semesters to teach courses and participate with local faculty and students in research projects;

(d) Approximately eight distinguished consultancies, to send senior U.S. specialists (possibly including but not limited to the faculty mentors of the foreign faculty development grantees) for programs of approximately two weeks in length to teach short courses, advise faculty, and assess program developments;

(e) Approximately \$160,000 total for all three countries for equipment, books, and journal subscriptions selected to support instruction in the developing curricula;

(f) Translation of approximately twelve textbooks or collections of articles relevant to the program at each participating institution;

(g) A program of locally based collaborative student/faculty research at each primary department to enable local faculty and visiting U.S. lecturers jointly to train advanced students in empirical research skills by collaborating on projects designed to study and analyze local social and political problems, particularly those related to democratization;

(h) Approximately four graduate student research awards (approximately one semester in length) for consultation and study in the U.S. with scholars whose expertise is critical to the subject

or methodology of the student's thesis or other research interest;

(i) Intensive seminars to be held in cooperation with the participating departments for the purpose of developing locally based scholarly networks and to include faculty members and advanced students from other institutions in the region in discussions of the newly taught methodologies, subjects, and approaches.

Proposed Budget

Applicants are invited to submit a detailed budget for a total grant not to exceed \$1,242,247 for Year One of the project, with the possibility of renewal at a level not to exceed this amount for each of two additional fiscal years contingent upon availability of funds. Applicants must submit a comprehensive budget for Year One of the project. The project to be funded in Year One may be implemented over a two-year period. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. Within the program budget, at least \$305,593 should be designated for Poland; at least \$305,593 should be designated for Hungary; at least \$382,612 should be designated for Romania. For better understanding or further clarification, applicants may provide separate sub-budgets for each program component, location, or activity in order to facilitate USIA decisions on funding. The total institutional administrative costs funded by USIA in Year One may not exceed \$248,449 or 20% (twenty percent) of the total request, whichever is less. Please refer to the Application Package for complete formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Application Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency contracts office, as well as the USIA Office of East European and NIS Affairs and the relevant USIA posts overseas. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the project and the Agency mission. Proposals should reflect an advanced, current understanding of relevant scholarly fields and disciplines.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and scholarly linkages, including professional associations.

5. *Support of Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation (such as a written statement or account) summarizing past and/or on-going activities and efforts that further the principle of diversity within both the organization and the program activities.

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the project's goals. The applicant organization should demonstrate a capacity to work cooperatively with U.S. scholars and graduate departments of political science and public administration, with U.S. scholarly organizations, and with all three participating central European institutions as well as relevant foreign scholarly organizations.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful, high quality exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Follow-on Activities:* Proposals should provide both a plan for continuing activity (with USIA support) based on project evaluation and a strategy for encouraging coordinated concurrent and subsequent supplementary activities (without USIA support) to ensure that the USIA-supported project will not be an isolated event.

9. *Project Evaluation:* Proposals should include a comprehensive plan to evaluate the project's success both as the activities unfold and at the end of the project. USIA recommends that the proposal include a draft survey questionnaire and/or outline of other techniques including a methodology for completing baseline assessments and defining program needs for later years of the project through the evaluation of program outcomes with relation to project objectives. Demonstration of a carefully considered and feasible plan for evaluating the project will be critical to the proposal review process. Award-receiving organizations/institutions will be expected to submit quarterly reports.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

12. *Value to U.S.-Partner Country Relations:* Proposed projects will be assessed by USIA's geographic area desk and overseas officers with regard to program need, potential impact, and significance in the partner countries.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The needs of the program may require the award to be reduced, revised, or increased. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about March 6, 1995. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: November 15, 1994.

Dell Pendergrast,

Deputy Associate Director, Educational and Cultural Affairs.

[FR Doc. 94-28724 Filed 11-23-94; 8:45 am]

BILLING CODE 8230-01-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the California Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 p.m. on December 10, 1994, at the Holiday Inn at Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, California 94133. The purpose of the meeting is program planning for an Orange County open meeting and followup to the media project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Michael C. Carney or Philip Montez, Director of the Western Regional Office, 213-894-3437 (TDD 213-894-0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 14, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94-29023 Filed 11-23-94; 8:45 am]

BILLING CODE 6335-01-P

Agenda and Notice of Public Meeting of the Idaho Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Idaho Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on December 8, 1994, at the Red Lion Inn, 1800 Fairview Avenue, Boise, Idaho 83702. The purpose of the meeting is to plan activities and to discuss law enforcement issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gladys Esquibel

or Philip Montez, Director of the Western Regional Office, 213-894-3437 (TDD 213-894-0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 14, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94-29024 Filed 11-23-94; 8:45 am]

BILLING CODE 6335-01-P

Agenda and Notice of Public Meeting of the Wisconsin Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will be held from 10:00 a.m. until 1:00 p.m. on Monday, December 12, 1994, at the Wyndham Hotel, 139 E. Kilbourn Avenue, Milwaukee, Wisconsin. The purpose of the meeting is to hold a press conference to release the Advisory Committee's report, "Police Protection of the African American Community in Milwaukee" and to discuss current issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kimberly Shankman at 414-748-8197 or Constance M. Davis, Director of the Midwestern Regional Office, 312-353-8311 (TDD 312-353-8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 14, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94-29025 Filed 11-23-94; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36-94]

Foreign-Trade Zone 93—Raleigh/Durham, NC, Application for Subzone Status, R.G. Barry Corporation, (Footwear and Thermal Comfort Products), Goldsboro, NC

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Triangle J Council of Governments, grantee of FTZ 93, Research Triangle Park, North Carolina, requesting special-purpose subzone status for the distribution facilities of R.G. Barry Corporation, located in Goldsboro, North Carolina. 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 November 16, 1994.

R.G. Barry is a manufacturer and distributor of comfort footwear (household slippers) and thermal comfort products (heat seats, scarves, back warmers, hand warmers, pocket warmers, ear muffs and bread warmers) with total sales of over \$100 million (1993) and worldwide employment of 3,685 persons. The company has U.S. plants in San Angelo, Texas, Goldsboro, North Carolina, and Laredo, Texas, with operational headquarters in San Antonio, Texas. An application is pending with the FTZ Board for subzone status for warehouse/distribution activities at Barry's San Angelo plant (FTZ Docket 34-94, 59 FR 56459, 11/14/94).

R.G. Barry's Goldsboro, North Carolina plant is located at 2201 South John Street (172,020 sq. ft. on 35 acres), some 45 miles southeast of Raleigh. The facility (65 employees) is engaged in the warehousing and distribution of R.G. Barry's footwear and comfort products. The products are generally made of domestic materials (polyester and other man-made fibers), which are cut at Barry plants in the U.S. and sent to company plants abroad to be sewn. The finished products are then shipped to Barry's U.S. distribution centers. While currently over five percent of the finished products are reexported, the company plans to increase export activity to 14 percent.

Zone procedures would exempt R.G. Barry from Customs duty payments on the foreign value involved in products that are reexported. On its domestic sales, the company would be able to defer Customs duties on the value added abroad. The application indicates

that zone savings would help improve the international competitiveness of the company's domestic operations.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 30, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1995).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Commerce District Office, 400 W. Market St., Suite 400, Greensboro, North Carolina 27401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Constitution Avenue, NW., Washington, DC 20230

Dated: November 17, 1994.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 94-28955 Filed 11-29-94; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 710]

Grant of Authority for Subzone Status; Merck & Co., Inc., (Pharmaceuticals), Elkton, VA

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 Culpeper County Chamber of

Commerce, grantee of Foreign-Trade Zone 185, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facilities of Merck & Co., Inc., in Elkton, Virginia, was filed by the Board on December 14, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 63-93, 58 FR 68116, 12-23-93); 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 185C) at the plant site of Merck & Co., Inc., in Elkton, Virginia, 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 14th day of November 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94-29104 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 711]

Grant of Authority for Subzone Status; Merck & Co., Inc. (Pharmaceuticals), Riverside, PA

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 Eastern Distribution Center, Inc., grantee

of Foreign-Trade Zone 24, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facilities of Merck & Co., Inc., in Riverside, Pennsylvania, was filed by the Board on December 28, 1993, and notice inviting public comment was given in the *Federal Register* (FTZ Docket 64-93, 59 FR 731, 1-6-94); 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 24B) at the plant site of Merck & Co., Inc., in Riverside, Pennsylvania, 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 14th day of November 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 94-29103 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 708]

Grant of Authority for Subzone Status; Merck & Co., Inc. (Pharmaceuticals), West Point, PA

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 Philadelphia Regional Port Authority, grantee of Foreign-Trade Zone 35, for authority to establish special-purpose

subzone status at the pharmaceutical manufacturing facilities of Merck & Co., Inc., in West Point, Pennsylvania, was filed by the Board on July 1, 1993, and notice inviting public comment was given in the *Federal Register* (FTZ Docket 29-93, 58 FR 38749, 7-20-93); 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 35B) at the plant site of Merck & Co., Inc., in West Point, Pennsylvania, 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 14th day of November 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 94-29102 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 709]

Grant of Authority for Subzone Status; Merck & Co., Inc. (Pharmaceuticals), Wilson, NC

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 Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facilities of Merck & Co.,

Inc., in Wilson, North Carolina, was filed by the Board on August 9, 1993, and notice inviting public comment was given in the *Federal Register* (FTZ Docket 40-93, 58 FR 44492, 8-23-93); 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 93C) at the plant site of Merck & Co., Inc., in Wilson, North Carolina, 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 14th day of November 1994.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 94-29101 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

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 December 1994.

EFFECTIVE DATE: November 25, 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, N.W., Washington, D.C. 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

Brazil

Certain Carbon Steel Butt-Weld Pipe Fittings

A-351-602

51 FR 45152

December 17, 1986

Contact: Thomas Schauer at (202) 482-4733

Germany

Animal Glue

A-428-062

42 FR 64116

December 22, 1977

Contact: Dennis Askey at (202) 482-2657

Japan

Drafting Machines and Parts Thereof

A-588-811

54 FR 53671

December 29, 1989

Contact: Carlo Cavagna at (202) 482-4851

Large Electric Motors

A-588-091

45 FR 84994

December 24, 1980

Contact: Elizabeth Urfer at (202) 482-4052

Polychloroprene Rubber

A-588-046

38 FR 33593

December 6, 1973

Contact: Dennis Askey at (202) 482-2657

Steel Wire Strand

A-588-068

43 FR 57599

December 8, 1978

Contact: Kris Campbell at (202) 482-3813

New Zealand

Low-Fuming Brazing Copper Rod & Wire

A-614-502

50 FR 49740

December 4, 1985

Contact: Karin Price at (202) 482-3782

Taiwan

Porcelain-On-Steel Cooking Ware

A-583-508

52 FR 2139

December 2, 1986

Contact: Dennis Askey at (202) 482-2657

Venezuela

Aluminum Sulfate

A-307-801

54 FR 51442

December 15, 1989

Contact: Mike Rill at (202) 482-4023

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 December 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: November 16, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94-28958 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[A-122-820; A-122-823]

Partial Termination of Administrative Review of Antidumping Duty Order; Certain Cut-to-Length Carbon Steel Plate From Canada

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

ACTION: Notice of Partial Termination of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from IPSCO, Inc., the Department of Commerce (the Department) initiated an administrative review of IPSCO, Inc. on September 8, 1994. On October 7, 1994, IPSCO timely withdrew its request for an administrative review of the above referenced order. Because there were no other requests for review of this company from any other interested party, the Department is now terminating this review with respect to IPSCO, Inc.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Art Stern, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230; telephone (202)482-3793.

SUPPLEMENTARY INFORMATION: On August 30, 1994, the Department received a request from IPSCO, Inc. to conduct an administrative review of the antidumping duty order pursuant to § 353.22(a)(2) of the Department's regulations (19 CFR 353.33(a)(2)).

On September 8, 1994, the Department published in the *Federal Register* a Notice of Initiation for this review (59 FR 46391). On October 7, 1994, IPSCO, Inc. withdrew its request for administrative review. This withdrawal was made within the time limits established in § 353.22(a)(5) of the Department's regulations. No other interested party has requested an administrative review of IPSCO's entries in this proceeding.

In accordance with § 353.22(a)(5) of the Department's regulations, the Department has determined to terminate this administrative review for IPSCO, Inc.

Absent a review, we shall instruct the Customs Service to liquidate IPSCO's entries.

Furthermore, because IPSCO was a previously investigated company, the cash deposit rate will continue to be the company-specific rate found for IPSCO during the investigation, as amended pursuant to an order of the U.S.-Canada

binational panel. See *Amended Final Determination Pursuant to Binational Panel Order; Certain Cut-to-Length Carbon Steel Plate from Canada*, 59 FR 15373 (April 1, 1994).

This notice is published in accordance with 19 CFR 353.22(a)(5).

Dated: November 16, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94-28956 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[A-570-826]

Antidumping Duty Order: Certain Paper Clips From the People's Republic of China

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

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Dorothy Tomaszewski or Erik Wurga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-0631 or (202) 482-0922, respectively.

Scope of Order

The products covered by this order are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this order may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1 clips", "No. 3 clips", "Jumbo" or "Giant" clips, "Gem clips", "Frictioned clips", "Perfect Gems", "Marcel Gems", "Universal clips", "Nifty clips", "Peerless clips", "Ring clips", and "Glide-On clips".

Specifically excluded from the scope of this order are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the *Harmonized Tariff Schedule of the United States* (HTSUS).

The products subject to this order are currently classifiable under subheading 8305.90.3010 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our

written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended ("the Act"), on September 30, 1994, the Department of Commerce ("the Department") made its final determination that certain paper clips from the People's Republic of China ("PRC") were being sold at less than fair value (59 FR 51168, October 7, 1994). On November 14, 1994, the International Trade Commission notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of the subject merchandise.

Therefore, all unliquidated entries of certain paper clips from the PRC entered, or withdrawn from warehouse, for consumption on or after May 18, 1994, which is the date on which the Department published its notice of preliminary determination in the *Federal Register*, are liable for the assessment of antidumping duties.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all relevant entries of certain paper clips from the PRC. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rate applies to all exporters of PRC paper clips not specifically listed below.

The *ad valorem* weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Shanghai Lansheng Corporation ..	57.64
Zhejiang Light Industrial Products Import and Export Corporation ..	46.01
Zhejiang Machinery and Equipment Import and Export Corporation ..	60.70
All Others (including Abel Industries) ..	126.94

This notice constitutes the antidumping duty order with respect to certain paper clips from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the

Main Commerce Building, for copies of an updated list of antidumping orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: November 17, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94-28957 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

[A-588-029]

Fishnetting of Man-Made Fiber From Japan; Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Amendment to Final Results of Antidumping Duty Administrative Review.

SUMMARY: On May 26, 1994, the Department of Commerce (the Department) submitted to the Court of International Trade (CIT) the final results of redetermination pursuant to a remand in *Momoi Fishing Net Mfg. Co. v. United States* (Court No. 93-09-00522, February 28, 1994). On September 8, 1994, the CIT affirmed our redetermination (Slip Op. 94-140). In accordance with that affirmation, we are hereby amending the final results of the administrative review for the June 1, 1990, through May 31, 1991, period with respect to Momoi Fishing Net Manufacturing Co. (Momoi). Momoi's rate is zero percent for the 1990-1991 period.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Kimberly Moore or Tom Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230; telephone: (202) 482-0090.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1994, the CIT, in *Momoi Fishing Net Mfg. Co. v. United States* (Court No. 93-09-00522, February 28, 1994), remanded to the Department for redetermination the final results of the June 1, 1990, through May 31, 1991, administrative review of the antidumping finding on fishnetting of man-made fiber from Japan (37 FR 11560, June 9, 1972).

In the Department's final results of administrative review, the dumping margin for Momoi's fishnetting sold or imported into the United States for the period June 1, 1990, through May 31, 1991, was 2.67 percent. Momoi's dumping margin for those final results was calculated based on the price to Momoi's U.S. importers (see *Fishnetting of Man-Made Fiber from Japan; Final Results of Antidumping Administrative Review*, 58 FR 42291 (August 9, 1993)). Based on the information on the record, the Department concluded that the price to Momoi's U.S. importers included U.S. Customs duties and brokerage expenses.

On February 28, 1994, the CIT remanded this case to the Department to reconsider whether Momoi's C.I.F. sales excluded any charges for U.S. Customs duties and U.S. brokerage charges in the calculation of United States price (USP) for Momoi (see *Momoi Fishing Net Mfg. Co. v. United States* (Court No. 93-09-00522)).

Final Remand Results

In accordance with the CIT's order, the Department revised its final results with respect to Momoi for the 1990-1991 administrative review of fishnetting of man-made fiber from Japan. Based on additional documents provided by Momoi in response to a supplemental questionnaire issued by the Department, we determined that Momoi's C.I.F. sales prices excluded U.S. Customs duties and U.S. brokerage charges. We determined that the revised weighted-average margin based on this information for the period June 1, 1990, through May 31, 1991, is zero percent.

Final Results of Redetermination

On September 8, 1994, the CIT affirmed our redetermination (Slip Op. 94-140). In accordance with that affirmation, we are hereby amending the final results of the administrative review for the June 1, 1990, through May 31, 1991 period with respect to Momoi. Momoi's rate for the 1990-1991 period is zero percent.

Since we have not conducted an administrative review of Momoi for a later period, we will instruct the U.S. Customs Service to apply these amended results as a cash deposit for entries of merchandise produced by Momoi. This deposit requirement, when imposed, shall remain in effect until publication of the final results of the next administrative review.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue

appraisal instructions directly to the Customs Service.

This amendment to final results of antidumping duty administrative review notice is in accordance with section 751(a)(1) of Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 14, 1994.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 94-29105 Filed 11-23-94; 8:45 am]
BILLING CODE 3510-DS-M

University of Florida, Notice of Withdrawal of Application for Duty- Free Entry of Scientific Instrument

The University of Florida has withdrawn Docket Number 94-072 an application for duty-free entry of a Laser Ablation System. This withdrawal constitutes final disposition for Docket Number 94-072 in accordance with § 301.7 of 15 CFR part 301.

Pamela Woods,

Acting Director, Statutory Import Programs
Staff.

[FR Doc. 94-29109 Filed 11-23-94; 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: 94-128. **Applicant:** Virginia State University, Agricultural Research Station, P.O. Box 9061, Petersburg, VA 23806. **Instrument:** Electron Microscope, Model 1210. **Manufacturer:** JEOL, Japan. **Intended Use:** The instrument will be used for agricultural research (plants, animals, bacteria, viruses) on the ultrastructural level. Specimens will consist of normal and pathological conditions with the objective of elucidating morphological,

physiological and genetic mechanisms. The research includes but is not limited to: (a) characterization of *Vernonia* seeds and the immunologicalization of lipid synthesis and storage sites at various stages of seed development, (b) localization of lipid storage sites in callus tissue of *Vernonia galamensis* using antibody-antigen reaction and IDnm gold particles, (c) ultrastructural and chemical composition of the stomates of pursalens under normal and high water-stress conditions. In addition, the instrument will be used for the training of agricultural graduate students on a one-to-one basis. **Application Accepted by Commissioner of Customs:** October 26, 1994.

Docket Number: 94-130. **Applicant:** University of California, Irvine, Department Psychiatry & Human Behavior, 200 Public Services Building, Irvine, CA 92717-1650. **Instrument:** Positron Emission Tomography Camera System, Model GE 2048. **Manufacturer:** General Electric, Sweden. **Intended Use:** The instrument will be used for the study of schizophrenia, depression, Alzheimer's disease and other psychiatric illnesses in order to obtain a more detailed understanding of what brain regions are metabolically different in these conditions compared to normal controls. One of the major focuses will be on what subregions of the thalamus and basal ganglia are malfunctioning in schizophrenia and how do new experimental treatments affect these regions. There will also be a series of studies looking at dopamine presynaptic turnover as assessed by FDOPA uptake. **Application Accepted by Commissioner of Customs:** November 1, 1994.

Docket Number: 94-131. **Applicant:** University of Rhode Island, Graduate School of Oceanography, South Ferry Road, Narragansett, RI 02882-1197. **Instrument:** 5-Sample Anticoincidence Multicounter System, Model GM-25-5. **Manufacturer:** Riso National Laboratory, Denmark. **Intended Use:** The instrument will be used to analyze samples for natural and artificial radionuclides in sea water, particulate matter and sediment samples in the laboratory during oceanographic research cruises. Experiments will involve collection of dissolved and particulate samples from seawater, purification in the laboratory, and analysis using the beta detector. The instrument will also be used in part of a course entitled "Marine Particles" which will deal with the role of particles in various ocean processes and techniques for determining particle transport rates in seawater. **Application**

Accepted by Commissioner of Customs:
November 2, 1994.

Pamela Woods,

Acting Director, Statutory Import Programs
Staff.

[FR Doc. 94-29108 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-F

[C-307-802]

Aluminum Sulfate From Venezuela; Intent To Revoke Countervailing Duty Order

AGENCY: Import Administration,
International Trade Administration,
Department of 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 aluminum sulfate from Venezuela (54 FR 51908; December 19, 1989). Domestic interested parties who object to this revocation must submit their comments in writing not later than the last day of December 1994.

EFFECTIVE DATE: November 25, 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, N.W., Washington, D.C. 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 19 CFR 355.25(d)(4), we are notifying the public of our intent to revoke the countervailing duty order on aluminum sulfate from Venezuela (54 FR 51908; December 19, 1989) 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 section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (defined in section 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke this order, and no interested party (defined in section 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 objects to the Department's intent to revoke, the Department will not revoke the order.

Opportunity To Object

Not later than the last day of December 1994, domestic interested parties may object to the Department's intent to revoke this countervailing duty order. Any submission objecting to 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 sections 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, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: November 18, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94-29106 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

Determination Not To Revoke Countervailing Duty Orders

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

ACTION: Notice of Determination Not To
Revoke Countervailing Duty Orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.

EFFECTIVE DATE: November 25, 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, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1994, the Department published in the *Federal Register* (59

FR 44966) its intent to revoke the countervailing duty orders listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation and no interested party requests an administrative review by the last day of the fifth anniversary month.

Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these countervailing duty orders. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke these orders.

This determination is in accordance with 19 CFR 355.25(d)(4).

Countervailing duty orders	Effective date
Argentina: Line Pipe (C-357-801).	09/27/88 53 FR 37619
Argentina: Standard Pipe (C-357-801).	09/27/88 53 FR 37619
Argentina: Heavy-Walled Rectangular Tubing (C-357-801).	09/27/88 53 FR 37619
Argentina: Light-Walled Rectangular Tubing (C-357-801).	09/27/88 53 FR 37619
Canada: New Steel Rail (C-122-805).	09/22/89 54 FR 39032
Israel: Roses (C-508-064).	09/04/80 45 FR 58516
New Zealand: Steel Wire (C-614-601).	09/02/86 51 FR 31156

Dated: November 16, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94-29107 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DS-P

Notice of Scope Rulings

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

ACTION: Notice of scope rulings and
anticircumvention inquiries.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed between July 1, 1994, and September 30, 1994. In conjunction with this list, the Department is also publishing a list of pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Jason R. Field or Wendy J. Frankel, Office of Antidumping Compliance,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5222/5253.

Background

The Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the *Federal Register* a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed between July 1, 1994, and September 30, 1994, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in January 1995 a notice of scope rulings and anticircumvention inquiries completed between October 1, 1994, and December 31, 1994, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

I. Scope Rulings Completed Between July 1, 1994, and September 30, 1994

Country: Sweden

A-401-040: *Stainless Steel Plate*

Avesta Sheffield—Stainless steel "hot bands" are within the scope of the finding. Signed September 6, 1994.

Country: People's Republic of China

A-570-504: *Petroleum Wax Candles*

West Coast Liquidators—Certain holiday object candles and certain holiday figurine tapers are not within the scope of the order. Signed July 27, 1994.

Star Merchandise—Citronella wax-filled container models HFT709, HFT801, HFT819, HFT821, HFT822, HFT823, HFT824, and HFT825, are outside the scope of the order. Wax-filled container models HFT704, HFT705, HFT707, HFT828, HFT829, HFX915, HFT846, HFT847, and HFT848, are outside the scope of the order. Wax-filled container models HFT842, HFT843, HFT844, HFT845, HFT702, HFT703, and HFT814, are within the scope of the order. Signed July 27, 1994.

Success Sales—Model SS-40425

"Holiday Pillar Candles" are not within the scope of the order.

Signed July 27, 1994.

II. Anticircumvention Rulings Completed Between July 1, 1994, and September 30, 1994

None.

III. Scope Inquiries Terminated

Between July 1, 1994, and September 30, 1994

Country: People's Republic of China

A-570-504: *Petroleum Wax Candles*

Scentex, Inc.—Clarification to determine whether Earth Scents brand potpourri candle is within the scope of the order. Terminated September 7, 1994.

IV. Anticircumvention Inquiries Terminated Between July 1, 1994, and September 30, 1994

None.

V. Pending Scope Clarification Requests as of September 30, 1994

Country: Mexico

A-201-805: *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Production Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on 1/13/94.

Country: Brazil

A-351-809: *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A-351-503: *Iron Construction Castings*

Southland Marketing—Clarification to determine whether certain cast iron grates and frames are within the

scope of the order.

Country: People's Republic of China

A-570-001: *Potassium Permanganate*

Aerostat Inc.—Clarification to determine whether certain plastic ignitor spheres are within the scope of the order.

A-570-504: *Petroleum Wax Candles*

Two's Company—Clarification to determine whether certain decorated pillar candles and red and gold angel taper candles are within the scope of the order.

Lew-Mark Baking Co.—Clarification to determine whether a pansy candle tin is within the scope of the order.

Springwater Cookie and

Confections—Clarification to determine whether certain feather twist candles are within the scope of the order.

A-570-502: *Iron Construction Castings*

Jack's International—Clarification to determine whether certain cast iron area drains are within the scope of the order.

A-570-808: *Chrome-Plated Lug Nuts*

Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

Country: Korea

A-580-809: *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A-580-811: *Steel Wire Rope*

TSK Korea and Hi-Lex Corp.—Clarification to determine whether certain motion control cables are within the scope of the order.

Country: Japan

A-588-802: *3 1/2" Microdisks*

TDK Inc., TDK Electronics Co.—Clarification to determine whether certain web roll media are within the scope of the order.

A-588-014: *Tuners*

Alpine Electronics—Clarification to

- determine whether certain car radio/stereo and/or replacement parts, comprised of four subassemblies and their components, are within the scope of the finding.
- Fujitsu Ten Corporation of America—Clarification to determine whether certain "front end" components of car tuners are within the scope of the finding.
- A-588-045: *Cellular Mobile Telephones and Subassemblies*
Matsushita Communication Industrial Co., Ltd., and its related entities—Clarification to determine whether certain portable telephones, subassemblies, and components thereof are within the scope of the order (five products).
- Mitsubishi Electric Corp., Mitsubishi Electronics America, Inc., Mitsubishi Consumer Electronics America, Inc.—Clarification to determine whether model 2000 cellular mobile telephone is within the scope of the order.
- TDK Corporation of America—Clarification to determine whether Duplexers, Voltage Control Oscillators, and Isolators are within the scope of the order.
- JRC International—Clarification to determine whether personal cellular telephone model PTR-830 is within the scope of the order.
- JRC International—Clarification to determine whether personal cellular telephone model PTR-829 is within the scope of the order.
- NEC Corporation and NEC America, Inc.—Clarification to determine whether personal cellular telephone models MP5A1D1 and MP5A1D2 are within the scope of the order.
- A-588-823: *Professional Electric Cutting Tools*
Makita Inc., Makita U.S.A.—Clarification to determine whether Wood Surfer model LP1812C is within the scope of the order.
- Makita Inc., Makita U.S.A.—Clarification to determine whether Electronic Jig Saw model 4304 is within the scope of the order.
- Makita Inc., Makita U.S.A.—Clarification to determine whether Planer-Jointer model 2030SC is within the scope of the order.
- Makita Inc., Makita U.S.A.—Clarification to determine whether Chain Morticer model 7104L is within the scope of the order.
- A-588-055: *Acrylic Sheet*
Sumitomo Chemical America, Inc.—Clarification to determine whether acrylic sheet with light scattering properties is within the scope of the order.
- A-588-604: *Tapered Roller Bearings and Parts Thereof*
Keyo Seiko—Clarification to determine whether certain forgings are within the scope of the order. Affirmative preliminary ruling issued on February 28, 1994.
- A-588-814: *Polyethylene Terephthalate (PET) Film*
Kimoto U.S.A. Inc.—Clarification to determine whether certain Anti-Static Clear Film is within the scope of the order.
- Tektronix, Inc., Tektronix Asia—Clarification to determine whether overhead projection film model 4681 and model 4684 are within the scope of the order.
- Country: Venezuela
A-307-805: *Circular Welded Non-Alloy Steel Pipe*
Self-initiation. Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
- Country: Argentina
C-357-803: *Leather*
Petitioners—Clarification to determine whether upper bovine leather without hair on, not whole, prepared after tanning is within the scope of the countervailing duty order.
- Country: Sweden
A-401-040: *Stainless Steel Plate*
Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Clarification to determine whether Stavax, Ramax, and 904L are within the scope of the finding.
- Country: Germany
A-428-801: *Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof*
RoteK—Clarification to determine whether certain "slewing rings" are within the scope of the order.
- Kaydon—Clarification to determine whether certain "slewing rings" are within the scope of the order.
- Consolidated Saw Mill International (CSMI) Inc.—Clarification to determine whether certain Cambio bearings contained in its sawmill debarker are within the scope of the order.
- Marquart Switches—Clarification to determine whether certain steel balls are within the scope of the order.
- Country: Taiwan
A-583-810: *Chrome-Plated Lug Nuts*
Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.
- A-583-603: *Stainless Steel Cookware*
Max Burton Enterprises, Inc.—Clarification to determine whether the Max Burton StoveTop Smoker is within the scope of the order.
- A-583-508: *Porcelain-on-Steel Cookware*
Blair Corp.—Clarification to determine whether product number 271911 eight-quart stock pot and product number 271921 twelve-quart stock pot are within the scope of the order.
- Blair Corp.—Clarification to determine whether product number 1001 seven piece cookware set is within the scope of the order.

VI. Pending Anticircumvention Inquiry Requests as of September 30, 1994

Country: Mexico

- A-201-806: *Steel Wire Rope*
Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers—Anticircumvention inquiry to determine whether a producer of steel wire rope in Mexico is circumventing the antidumping order by importing steel wire strand into the United States where it is wound into steel wire rope. Affirmative preliminary determination of circumvention published June 3, 1994.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: November 10, 1994.

Roland L. MacDonald,
Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94-28959 Filed 11-23-94; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[I.D. 112194A]

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Notice of Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

TIME AND

DATES: Meeting will convene at 8:30 a.m., December 13, and adjourn at 2:15 p.m., December 14, 1994.

PLACE: The Key Bridge Marriott, 1401 Lee Highway, Arlington, VA.

STATUS: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, and environmental, state, consumer, academic, and other national interests.

MATTERS TO BE CONSIDERED: December 13, 1994, 8:45 a.m. - 5:00 p.m., (1) Progress report: Administration's Fisheries Initiatives, (2) Status of World Fisheries, (3) 1995 NMFS Budget, (4) Amendments to the Magnuson Act, (5) World Bycatch Issues, and (6) NMFS Restructuring. December 14, 1994, 9:00 a.m. - 3:30 p.m., (1) MAFAC Subcommittee Activities, (2) Amendments to the Marine Mammal Protection Act, and (3) Report on U.N. Conference on Straddling Fish Stock and Highly Migratory Fish Stocks.

FOR FURTHER INFORMATION CONTACT: Richard Wheeler, Executive Secretary, Marine Fisheries Advisory Committee, Management Services Office, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Telephone: (301) 713-2259. Reasonable accommodation for handicapped persons will be made with advance notice.

Dated: November 21, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94-29071 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-08-F

[I.D. 111494C]

Marine Mammals

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

ACTION: Receipt of application for a scientific research permit (P524A).

SUMMARY: Notice is hereby given that the University of Hawaii at Manoa, 1129 Ala Manoa Boulevard, Honolulu, HI 96814, has applied in due form for a permit to take (harass) humpback whales (*Megaptera novaeangliae*) for purposes of scientific research.

DATES: Written comments must be received on or before December 27, 1994.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4001);

Director, Alaska Region, NMFS, NOAA, Federal Annex, 9109 Mendenhall Mall Road, Suite 6, Juneau, AK 99802 (907/586-7221);

Coordinator, Pacific Area Office, NMFS, NOAA, 2570 Dole Street, Room 106, Honolulu, HI 9682-2396 (808/973-2937).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant seeks authorization under the Endangered Species Act to take (harass) up to 750 humpback whales (*Megaptera novaeangliae*) during observational and photographic-

identification activities for purposes of scientific research. Animals will also be covered for Level B harassment under the General Authorization for Research under the Marine Mammal Protection Act. Activities will take place in the North Pacific, primarily in Hawaiian waters, over a 5-year period. The applicant proposes to initiate this work in January 1995.

Dated: November 17, 1994.

Patricia A. Montanio,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94-28946 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-22-F

Economics and Statistics Administration

Advisory Committee of the Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000-2009

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, as amended by Pub. L. 94-409) we are giving notice of a meeting of the Advisory Committee of the Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000-2009. The meeting will convene on Thursday, December 8, 1994, and continue through Friday, December 9, 1994, at the Bureau of the Census' Conference Center, Federal Building 3, Suitland, Maryland.

The Advisory Committee is composed of a Chair, twenty-five member organizations, and nine ex officio members, all appointed by the Secretary of Commerce. The Advisory Committee will consider the goals of the census and user needs for information provided by the census, and provide a perspective from the standpoint of the outside user community on how proposed designs for the year 2000 census realize those goals and satisfy those needs. The Advisory Committee shall consider all aspects of the conduct of the census of population and housing for the year 2000, and shall make recommendations for improving that census.

DATES: The meeting will begin at 8:30 a.m. and adjourn at 4:30 p.m. on Thursday, December 8, 1994 and reconvene at 8:30 a.m. on Friday, December 9, 1994, with adjournment set for 11:30 a.m.

ADDRESSES: The meeting will take place at the Bureau of the Census' Conference

Center, Federal Building 3, Suitland, Maryland.

FOR FURTHER INFORMATION CONTACT: Persons wishing additional information regarding this meeting, or who wish to submit written statements or questions, may contact Thomas P. DeCair, Department of Commerce, Bureau of the Census, Room 2066, Federal Building 3, Washington, DC 20233. Telephone (301) 763-7298.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes discussions on the role of state and local governments, plans for outreach and promotion, content testing plans, and an update of the federal review of racial and ethnic categories, as well as any other items that the Chair and Advisory Committee members deem appropriate for this meeting.

The meeting is open to the public. A brief period will be set aside for public comment and questions. However, persons with extensive questions or statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Susan Knight on (301) 763-7298.

Dated: November 21, 1994.

Everett M. Ehrlich,

*Under Secretary for Economic Affairs,
Economics and Statistics Administration.*

[FR Doc. 94-29100 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-EA-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment, Amendment and Elimination of Import Limits and Sublimits for Certain Cotton and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 18, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing, amending and eliminating limits and sublimits.

EFFECTIVE DATE: November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textile and

Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 9276-6712. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated November 3, 1994, the Governments of the United States and Malaysia agreed to extend and amend their current bilateral textile agreement. The agreement is extended for a one-year period beginning on January 1, 1995 and extending through December 31, 1995.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish sublimits for Categories 611, 619, 620 in the Fabric Group for the 1994 agreement period and increase the current limits for the Fabric Group and Categories 338/339 and 347/348. The limits for Categories 647/648 and 645/646 are being reduced to account for additional flexibility which was applied as a result of the increases. In addition, the sublimits for Categories 334, 335 and 635 are being eliminated.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States** (see **Federal Register notice 58 FR 62645**, published on November 29, 1993). Also see **58 FR 65580**, published on December 15, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Dated: November 18, 1994.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 18, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The directive amends, but does not cancel, the directive issued to you on December 9, 1993, by the Chairman, Committee for the Implementation of Textile

Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on November 28, 1994, you are directed, pursuant to the Memorandum of Understanding (MOU) dated November 3, 1994 between the Governments of the United States and Malaysia, to move Categories 611, 619 and 620 from Group II to the Fabric Group and establish sublimits for Categories 611, 619 and 620. The import charges for Categories 611, 619 and 620 shall be moved from Group II and applied to the newly established sublimits in the Fabric Group. Further, you are directed to eliminate the sublimits for Categories 334 and 335 in merged Categories 333/334/335/835 and 635 in merged Categories 634/635. The import charges for these sublimits shall be retained. You are directed to establish and amend the following limits and sublimits, as provided under the terms of the November 3, 1994 MOU:

Category	Adjusted twelve-month limit ¹
Fabric Group:	
218, 219, 220, 225-227, 313- 315, 317, 326, 611, 613/614/ 615/617, 619 and 620, as a group.	88,034,890 square meters.
Sublevels in the group:	
611	3,000,000 square meters.
619	4,000,000 square meters.
620	5,000,000 square meters.
Other Specific Limits:	
338/339	862,362 dozen.
347/348	467,773 dozen.
645/646	274,228 dozen.
647/648	1,294,071 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-28960 Filed 11-23-94; 8:45 am]

BILLING CODE 3510-DR-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 and Applicable Form: Fort Bragg Commissary Sizing Survey; DeCA Form 60-1 OT.

Type of Request: Expedited processing—Approval date requested: 30 days following publication in the Federal Register.

Number of Respondents: 8,503.

Responses Per Respondent: 1.

Annual Responses: 8,503.

Average Burden Per Response: 4 minutes.

Annual Burden Hours: 567.

Needs and Uses: Office of the Inspector General, DoD, Report 94-172 recommends the Defense Commissary Agency conduct a patron survey to support new commissary construction at Fort Bragg, NC. The information collected hereby will be utilized to validate the requirement for a new commissary, as well as to determine how large the store should be.

Affected Public: Individuals or households.

Frequency: Onetime.

Respondent's Obligation: Voluntary.

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: November 18, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-28983 Filed 11-23-94; 8:45 am]

BILLING CODE 5000-04-M

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 and Applicable Form: Defense Logistics Agency Materiel Management Customer Service Questionnaire; SCANTRON Form F-5561-DFAS.

Type of Request: Expedited processing—Approval date requested: 30 days following publication in the Federal Register.

Number of Respondents: 153.

Responses Per Respondent: 1.

Annual Responses: 153.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 77.

Needs and Uses: This questionnaire implements the requirement in Executive Order 12862, "Setting Customer Service Standards," to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. This questionnaire will assess the level of satisfaction with services provided by the Defense Logistics Agency (DLA) to customers who order repair parts and other goods from DLA.

The information collected hereby, will assist senior DLA management in determining specific business policies and procedures which warrant examination and reengineering from the customer's perspective.

Affected Public: Businesses or other for-profit; Federal agencies or employees; and small businesses or organizations.

Frequency: Onetime

Respondent's Obligation: Voluntary

OMB Desk Officer: Mr. Peter N. Weiss

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss 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: November 18, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-28984 Filed 11-23-94; 8:45 am]

BILLING CODE 5000-04-M

Office of the Secretary**Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); FY95 DRG Updates; Correction****ACTION:** Correction to notice.

SUMMARY: In notice document 94-25339 beginning on page 51994 in the issue of Thursday, October 13, 1994, make the following correction:

On page 51994, column 3, paragraph D., Outlier Payments, change 49 percent to 47 percent.

Dated: November 18, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-28985 Filed 11-23-94; 8:45 am]

BILLING CODE 5000-04-M

Joint Advisory Committee on Nuclear Weapons Surety**ACTION:** Notice of advisory committee meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will meet in closed session on 19-20 December, 1994, at Institute for Defense Analyses, Alexandria, Virginia.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting, the Joint Advisory Committee will receive classified briefings on DoD nuclear readiness capabilities.

In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. Section 552b (c)(1) and accordingly this meeting will be closed to the public.

Dated: November 18, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-28986 Filed 11-23-94; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases where the interest is a pension, insurance, or other similarly vested interest.

Mr. Reginal W. Spiller has been appointed as Deputy Assistant Secretary for Gas and Petroleum Technology. As a result of his previous employment with Maxus Energy Corporation, Mr. Spiller has a vested pension interest, within the meaning of section 602(c) of the Act, in the Maxus Energy Corporation Career Average Retirement Income Plan. I have granted Mr. Spiller a waiver of the divestiture requirement of section 602(a) of the Act with respect to this vested pension interest for the duration of his employment with the Department as a supervisory employee.

In accordance with section 208, title 18, United States Code, Mr. Spiller has been directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Maxus Energy Corporation, unless his appointing official determines that his financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from Mr. Spiller.

Dated: October 28, 1994.

Hazel R. O'Leary,
Secretary of Energy.

[FR Doc. 94-29086 Filed 11-23-94; 8:45 am]

BILLING CODE 6450-01-M

Notice of Availability of Draft Environmental Impact Statement and Public Hearings for the Proposed York County Energy Partners Cogeneration Project at North Codorus Township, PA

AGENCY: Department of Energy.

ACTION: Notice of Availability of Draft Environmental Impact Statement (Draft Statement), Notice of Public Hearings on the Draft Statement, and Floodplains/Wetlands Notification.

SUMMARY: The Department of Energy (Department) announces the availability of the York County Energy Partners Cogeneration Project's Draft Statement (EIS-0221) prepared to assess the environmental and human health effects of the design, construction, and operation of a proposed 250 (gross) megawatt electric (MWe) atmospheric circulating fluidized bed cogeneration facility, to be located in North Codorus Township, York County, Pennsylvania. As one of the proposals selected under Round I of the Clean Coal Technology Program, the Cogeneration Project would demonstrate the applicability of atmospheric circulating fluidized bed combustion and cogeneration technology at a utility scale. This technology, when compared to conventional coal burning technologies, would result in a cost effective reduction in emissions of sulfur, oxides of nitrogen, and particles from a nominal 250-MWe (227 MWe net) coal-fired power plant. The proposed action is the cost-shared Federal funding of the project by the Department of approximately \$75 million (about 20 percent of the total cost of approximately \$350 million). The industrial partner for this proposed project is York County Energy Partners, L.P., a project company of Air Products and Chemicals, Inc. The proposed project would be a cogeneration facility, supplying steam to be purchased by P.H. Glatfelter Company, and electricity that would be purchased by Metropolitan Edison Company. As a result of the purchase of steam, P.H. Glatfelter Company's No. 4 power boiler would be placed on hot-standby status and operated up to 720 hours per year in parallel with the proposed project. This would result in a net reduction in emissions of sulfur dioxide and particles within York County, Pennsylvania. In addition, emission reduction credits for oxides of nitrogen emissions would be transferred, in part, from the No. 4 power boiler to the proposed project in order to generate the 1.15 to 1 offsets required by law.

The Draft Statement assesses the environmental impacts of the atmospheric circulating fluidized bed combustion and cogeneration technology at a large utility scale and setting. The technologies to be demonstrated include a Foster Wheeler 2,500 MMBtu/hr single-train atmospheric circulating fluidized bed

boiler, incorporating selective non-catalytic reduction for reducing emissions of oxides of nitrogen, limestone injection for reducing emissions of sulfur dioxide, and fine particle filters for reducing particulate emissions.

DATES: The Department invites comments on the Draft Statement from all interested parties. Written comments or suggestions regarding the adequacy, accuracy, and completeness of the Draft Statement will be considered in preparing the Final Environmental Impact Statement (Final Statement) and should be received by January 10, 1995. Written comments received after that date will be considered to the degree practicable.

The Department will also hold public hearings on three consecutive dates at which agencies, organizations, and the general public are invited to present oral and/or written comments or suggestions on the Draft Statement. Locations, dates, and times for the public hearings are provided in the section of this notice entitled "PUBLIC HEARINGS." Written and oral comments will be given equal weight and will be considered in preparing the Final Statement. Requests for copies of the Draft Statement and/or Final Statement or questions concerning the project should be sent to Dr. Suellen A. Van Ooteghem at the address noted below.

ADDRESSES: Written comments on the Draft Statement should be received by January 10, 1995, for incorporation into the public hearing record. Oral and written comments will be accepted at the public hearings. Written comments, requests to speak at the hearings, or questions concerning the York County Energy Partners Cogeneration Project, should be directed to: Dr. Suellen A. Van Ooteghem, Environmental Project Manager, Morgantown Energy Technology Center, 3610 Collins Ferry Road, Morgantown, WV 26507-0880 Telephone: (304) 285-5443.

If you request to speak, please indicate at which hearing(s). Envelopes should be labeled "York County Energy Partners Draft EIS."

FOR FURTHER INFORMATION CONTACT: For general information on the Department's Environmental Impact Statement process and other matters related to the National Environmental Policy Act, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION:**Background and Need for the Proposed Action**

The Department proposes to provide cost-shared funding support for the design, construction, and operation of a 250-MWe (gross) coal-fired atmospheric circulating fluidized bed cogeneration power plant at North Codorus Township, Pennsylvania, to demonstrate the cost effective reduction in emissions of sulfur dioxide, oxides of nitrogen, and particulate matter. The proposed project was selected by the Department for negotiation of a Cooperative Agreement for Federal assistance under the Clean Coal Technology Program. Following a 24-month demonstration period anticipated to conclude in December, 1999, the facility would enter into commercial operation for a period of approximately 23 years. The proposed project would be located in North Codorus Township in York County, Pennsylvania, approximately 6 miles southwest of York, Pennsylvania. The proposed project would be built on property currently owned by P.H. Glatfelter Company, which would purchase approximately 400,000 lbs/hr of steam for industrial use from the proposed cogeneration project.

In December 1985, Congress allocated funds to the Department for conducting the first round of the cost-shared Clean Coal Technology Program. On February 17, 1986, the Department issued a Program Opportunity Notice soliciting proposals to conduct cost-shared projects to demonstrate innovative, energy efficient, economically competitive coal-based technologies that had potential for commercialization in the 1990s. In response to the solicitation, 51 proposals were received. From these proposals, nine projects were selected by the Department in July of 1986 for negotiation, and a list of alternate candidates was established in the event that one or more of the initial nine projects did not proceed. In June of 1989, the Arvah B. Hopkins Circulating Fluidized Bed Repowering Project, proposed by the City of Tallahassee, Florida, was selected from the alternate list. As originally envisioned, this project would have repowered one of the City of Tallahassee's municipally-owned natural gas boilers with atmospheric circulating fluidized bed combustion technology.

In early September 1991, the City of Tallahassee indicated that it no longer wished to proceed with the proposed project. The City indicated its willingness to cooperate with the effort to relocate the project, and other

potential hosts for the project were then considered. Subsequently, the Department agreed to reassign the project to York County Energy Partners, a subsidiary of Air Products and Chemicals, Inc., of Allentown, Pennsylvania. The new sponsors proposed to relocate the project from Tallahassee, Florida, to an industrial site adjacent to the J.E. Baker Company quarry and brick manufacturing operations in West Manchester Township, York County, Pennsylvania, and to operate the project as a cogeneration facility. Steam produced by the project would have been purchased by the J.E. Baker Company and electricity would have been purchased by Metropolitan Edison Company. All other major aspects of the project would have remained essentially unchanged from the original project.

During the summer of 1992, York County Energy Partners sought opportunities for air emissions reductions from existing companies in the vicinity of the proposed project as a means of acquiring air emissions offsets. Discussions with P.H. Glatfelter Company indicated that the desired level of air emissions reductions could be achieved by relocating the project to P.H. Glatfelter Company's paper mill facility in North Codorus Township, if the proposed York County Energy Partners project could provide sufficient steam to largely displace an existing P.H. Glatfelter Company coal-fired boiler. Additionally, it was determined that the co-location of the proposed cogeneration project with P.H. Glatfelter Company's paper mill facility would enable York County Energy Partners to treat and recycle wastewater from the mill for use as cooling water at the proposed cogeneration facility, thereby greatly reducing the amount of fresh water used. Accordingly, on February 1, 1993, York County Energy Partners and P.H. Glatfelter Company issued a joint statement that they were evaluating the feasibility of relocating the proposed York County Energy Partners project to the North Codorus Township site. The Department was requested to consider York County Energy Partners' proposed site change. The Department issued its approval of the proposed site change in a memorandum dated June 23, 1993.

Environmental Impact Statement Preparation

The Draft Statement has been prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act, as implemented in regulations promulgated by the Council on Environmental Quality (40 CFR Parts 1500-1508) and by the Department's

Implementing Procedures (10 CFR Part 1021). In accordance with the National Environmental Policy Act, the Department determined that providing cost-shared funding for the York County Energy Partners Cogeneration Project constitutes a major Federal action that may significantly affect the quality of the human environment. Therefore, the Department has prepared a Draft Statement to assess the potential impacts of both the proposed action, and reasonable alternatives to the proposed action, on the human and natural environment.

A Notice of Intent (Notice) to prepare an environmental impact statement and hold public scoping meetings was published in the *Federal Register* on July 29, 1993 (58 FR 40631). The Notice invited oral and written comments and suggestions on the proposed scope of the environmental impact statement, including environmental issues and alternatives, and invited public participation in the National Environmental Policy Act process. Scoping meetings were held on August 19, 1993 and October 5, 1993 in North Codorus Township and York, Pennsylvania, respectively. Overall, the Department received 614 comments. As a result of the scoping process, the Department developed an Environmental Impact Statement Implementation Plan to define the scope and to provide further guidance for preparing the environmental impact statement.

The Draft Statement provides an analysis of information prepared to evaluate the potential environmental impacts of the proposed construction and operation of the York County Energy Partners Project at the proposed site. This Draft Statement also considers the proposed action, an alternate site, and the no-action alternative, which includes a scenario that reasonably could be expected to result as a consequence of the no-action alternative. Impacts to human health, atmospheric resources, surface water, groundwater, socioeconomic resources (including environmental justice), noise, and traffic from construction and operation of the proposed York County Energy Partners Cogeneration Project have been analyzed. Impacts to biological resources, biodiversity, floodplains, and wetlands are also considered.

Floodplains/Wetlands Notification

Pursuant to Executive Order 11989 (Floodplain Management) and the Department's Procedures for Compliance with Floodplains/Wetlands Environmental Review Requirements

(10 CFR 1022), notification is provided that portions of electric connections and pipeline corridors proposed as components of the York County Energy Partners Cogeneration Project would be constructed and operated in the 100-year floodplain (as depicted on the Federal Emergency Management Agency's Flood Insurance Rate Map; Panel Number 422223 0005, 0010 and Panel Number 422227 0005, 0010). In addition, portions of ladder tracks and a rail spur associated with the proposed project would also be located within the 100-year floodplain. A total of approximately 1.1 acres would be expected to be utilized for placement of these ancillary facilities within the 100-year floodplain.

Small areas of the Codorus Creek's 100-year floodplain would be unavoidably impacted by development to connect the proposed project with utility (electric) substation facilities. Approximately 14 to 22 power line utility poles (required to provide a connection between the York County Energy Partners Cogeneration Facility and Metropolitan-Edison's existing Bair Substation) would be located within the 100-year floodplain of Codorus Creek. This electric interconnect would intersect the floodplain on property controlled by the U.S. Army Corps of Engineers, and property owned by P.H. Glatfelter Company. It is estimated that 4-8 utility poles would be located on land belonging to P.H. Glatfelter Company, and 10-14 utility poles would be located on land controlled by the Army Corps of Engineers. Placement of these utility poles would impact approximately 0.013 acres of the 100-year floodplain. Construction and operation of these electrical connections (and their rights-of way) would be conducted in accord with relevant regulatory requirements and in consultation with appropriate regulatory agencies.

Short segments of the proposed facility's steam supply pipeline to P.H. Glatfelter Company and condensate return pipeline would also be located within an identified 100-year floodplain, affecting approximately 0.3 acres. A small area (approximately 0.8 acres) of the Codorus Creek 100-year floodplain would be impacted by ladder tracks and rail spur that would require an expansion of the existing YorkRail right-of-way on P.H. Glatfelter Company property. The rail structures would be similar to, and closely parallel, the existing YorkRail Main line at the same elevation.

Impacts during construction would include equipment and vehicle access, earth disturbance, sedimentation,

erosion from exposed soils, damaged vegetation, and placement and compaction of fill to support new rail lines. In addition, the steam and condensate return pipelines to P.H. Glatfelter Company would require permanent pipe supports to be placed within the floodplain. During operation, there would be some periodic minor disturbance due to personnel and equipment entry for inspection and maintenance of the new ladder tracks, rail spur, and above-ground steam and condensate return pipelines to P.H. Glatfelter Company.

The potential impacts and mitigation measures associated with the above proposed activities within identified floodplains are discussed in Section 4 of the Draft Statement and constitutes the floodplains assessment in accordance with 10 CFR Part 1022.

Comments regarding the effects of the proposed action on floodplains may be submitted to the Department in accordance with the procedures described below.

In accordance with Executive Order 11990, Protection of Wetlands, and the Department's Procedures for Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR Part 1022), wetlands protection has also been considered in the Department's Draft Statement. Above- and below-ground pipeline connections between the proposed new facility and existing facilities would require construction affecting approximately 0.5 acres of wetlands. These wetlands would be temporarily disturbed as a result of construction and excavation activities associated with pipeline installation.

Four identified wetlands, along with Codorus Creek, would be potentially affected by the proposed project and utility corridors. A fringe wetland bordering Mill Pond and Kessler Pond would be unavoidably affected by placement of permanent pipe support foundations for a pipe rack supporting the steam and condensate return pipelines to the P.H. Glatfelter Company facility. This wetland impact is unavoidable due to the proposed facility being sited on the opposite side of Codorus Creek from the P.H. Glatfelter Company facility. Three other wetlands would be traversed by supply and return pipelines for the proposed project cooling tower. A total of approximately 0.20 acre of these three wetlands would be impacted for excavation and underground placement of cooling tower supply and return pipelines from the proposed facility to P.H. Glatfelter Company facilities.

During construction of the pipeline interconnect, vegetation would be selectively removed using manual labor whenever possible in order to minimize potential impacts associated with mechanical clearing techniques. York County Energy Partners would obtain regulatory approval prior to construction or disturbance of wetlands. Potential impacts during construction and operation, such as erosion and sedimentation, would be controlled with appropriate mitigation measures (such as silt fencing during construction).

It should be noted, however, that construction of the proposed electrical interconnect corridor, the proposed rail spur, and ladder track associated with this proposed project would not result in incursion into wetland areas.

Potential environmental impacts to wetlands are discussed more fully in Chapter 4 of the Draft Statement and constitutes the wetlands assessment in accordance with 10 CFR Part 1022. Comments regarding the effects of the proposed action on wetland areas may be submitted to the Department in accordance with the procedures described below.

Comment Procedures

Availability of Draft Statement

Copies of the Draft Statement are being distributed to organizations, environmental groups, and individuals known to be interested in or affected by the proposed project. Additional copies of the document or appendices to the main document may be obtained by contacting the Department as provided in the section of this notice entitled **ADDRESSES**.

Copies of the Draft Statement, including major documents referenced in the Draft Statement, are available for inspection at the locations identified below:

(1) U.S. Department of Energy, Freedom of Information Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

(2) U.S. Department of Energy, Morgantown Energy Technology Center, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507-0880.

(3) Glatfelter Memorial Library, 101 Glenview Rd., Spring Grove, PA 17362.

(4) York County Library, 118 Pleasant Acres Rd., York, PA 17401.

(5) York County Courthouse, 28 E. Market St., York, PA 17401.

Written Comments

Interested parties are invited to provide comments on the content of the

Draft Statement to the Department as indicated in the section of this notice entitled ADDRESSES. Envelopes should be labeled "York County Energy Partners Draft EIS." Comments should be received no later than January 10, 1995, the close of the public comment period, to ensure consideration in preparing the Final Statement. Comments received after January 10, 1995 will be considered to the extent practicable.

Public Hearings

Procedures

The public is invited to provide comments on the Draft Statement to the Department in person at the scheduled public hearings. Advance registration for presentation of oral comments at the hearings will be accepted up to one week prior to the hearing date by telephone or by mail at the office listed in the ADDRESSES section above. Envelopes should be labeled "York County Energy Partners Draft EIS." Requests to speak at a specific time will be honored if possible. Registrants are allowed to register only themselves to speak and must confirm the time they are scheduled to speak at the registration desk the day of the hearing. Persons who have not registered in advance may register to speak when they arrive at the hearings to the extent that time is available. To ensure that as many persons as possible have the opportunity to present comments, 5 minutes will be allotted to each speaker. Persons presenting comments at the hearings are requested to provide the Department with written copies of their comments at the hearing, if possible.

Hearing Schedules and Locations

Public hearings will be held at the following locations, times, and dates:

- Date: December 14, 1994
Time: 7:00 pm to 10:30 pm
(Registration will commence at 6:00 pm)
Place: York Fairgrounds, 334 Carlisle Avenue, York, PA 17404, (717) 848-2596
- Date: December 15, 1994
Time: 7:00 pm to 10:30 pm
(Registration will commence at 6:00 pm)
Place: York Fairgrounds, 334 Carlisle Avenue, York, PA 17404, (717) 848-2596
- Date: December 16, 1994
Time: 7:00 pm to 10:30 pm
(Registration will commence at 6:00 pm)
Place: York Fairgrounds, 334 Carlisle Avenue, York, PA 17404, (717) 848-2596

Conduct of Hearings

The Department's rules and procedures for the orderly conduct of hearings will be announced by the presiding officer at the start of the hearings. The hearings will not be of an adjudicatory or evidentiary nature. Speakers will not be cross-examined, although the presiding officer and the Department's members on the hearing panel may ask clarifying questions. In addition, the Department's representatives will be available to discuss the project in informal conversations. A transcript of the hearings will be prepared, and the entire record of each hearing, including the transcript, will be placed on file by the Department for inspection at the public locations given above in the COMMENT PROCEDURES section.

Signed in Washington DC, this 18th day of November 1994, for the United States Department of Energy.

Peter N. Brush,

Principal Deputy Assistant Secretary,
Environment, Safety and Health.

[FR Doc. 94-29087 Filed 11-23-94; 8:45 am]

BILLING CODE 6450-01-P

Office of Fossil Energy

[Docket No. FE C&E 94-12—Certification Notice 140]

Indeck-Saginaw Limited Partnership; Notice of Filing of Coal Capability; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy,
Department of Energy.

ACTION: Notice of filing.

SUMMARY: On November 9, 1994, Indeck-Saginaw Limited Partnership submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator

of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department Of Energy. The Secretary is required to publish a notice in the Federal Register that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Indeck-Saginaw Limited Partnership, Buffalo Grove, Illinois.
Operator: Indeck-Saginaw Limited Partnership, Buffalo Grove, Illinois.
Location: Buena Vista Charter Township, Michigan.
Plant Configuration: Combined cycle cogeneration.
Capacity: 87 megawatts.
Fuel: Natural gas.
Purchasing Entities: General Motors plant and local utilities.
In-Service Date: July, 1997.

Issued in Washington, DC, November 18, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs.

[FR Doc. 94-29088 Filed 11-23-94; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. RP95-46-000]

Southern Natural Gas Co.; Notice of Petition for Waiver

November 18, 1994.

Take notice that on November 14, 1994, Southern Natural Gas Company (Southern), pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, files a petition for a waiver of one of the provisions of its FERC Gas Tariff, Seventh Revised Volume No. 1, in compliance with Section 161.3(b) of the Commission's Regulations.

Southern requests a waiver of Section 2.1(a)(viii) of the General Terms and Conditions (GT&C) of its tariff to the extent necessary to allow Southern to waive the title requirement for one of its prospective firm shippers, Florida Gas Transmission Company (Florida).

Southern requests that the Commission allow Southern to grant a waiver of Section 2.1(a)(viii) of the GT&C of its tariff to Florida so that

Southern can provide the FT service requested by Florida as part of its Phase III Expansion.

Southern states that a copy of the filing is being served on all of Southern's shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before November 28, 1994. Protests will be considered by the Commission in determining appropriate action 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 94-29017 Filed 11-23-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP95-47-000]

Southern Natural Gas Co.; Notice of Petition for Clarification or Waiver of Tariff Provisions

November 18, 1994.

Take notice that on November 15, 1994, Southern Natural Gas Company (Southern) tendered for filing a petition for clarification or a temporary waiver of Section 23.2 (Credit Mechanism for Interruptible Transportation Revenues) of the General Terms and Conditions (Section 23.2) of Southern's FERC Gas Tariff, Seventh Revised Volume No. 1.

Southern states that waiver would allow Southern to defer making the revenue credits required by this section of its tariff until such time as the fixed cost allocation to the interruptible transportation (IT) rate is established with finality. In view of the Commission's order dated March 16, 1994, in Southern's Docket Nos. RP92-10-006, *et al.*¹ which requires that any change in the IT level of throughout made in the upcoming hearing in Southern Docket No. RP93-15-000 be applied retroactively, Southern states that it would be premature to make revenue credits at this time.

Southern states submits that such a clarification or waiver of Section 23.2 is warranted because the amount of fixed

costs allocated to IT service are now subject to revision retroactively and thus the appropriate credits cannot be accurately calculated at this time. Given this uncertainty, Southern states that the Commission should waive compliance with this provision of Southern's FERC Gas Tariff until such time as the necessary components for calculating such credits are final and ascertainable.

Southern states that a copy of the filing is being served on all of Southern's customers.

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 regulations. All such motions or protests should be filed on or before November 28, 1994. Protests will be considered by the Commission in determining appropriate action 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 94-29018 Filed 11-23-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. PR94-3-000]

Kansok Partnership; Notice of Change of Time of Informal Settlement Conference

November 18, 1994.

Take notice that the informal settlement conference in the above-captioned proceeding scheduled for Monday, November 21, 1994, at 2:00 P.M. in Room 3400-D at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, will begin at 10:00 A.M. rather than the originally-scheduled 2:00 P.M.

Attendance will be limited to the parties and participants, as defined by 18 CFR 385.102 (b) and (c). Persons wishing to become a party must move to intervene and receive intervenor status pursuant to section 385.214 of the Commission's regulations.

For additional information, please contact Mark E. Hegerle at (202) 208-0287.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 94-29008 Filed 11-23-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP94-424-002]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 15, 1994, pursuant to Section 4 of the Natural Gas Act and Part 154 of the Federal Energy Regulatory Commission's Regulations thereunder, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Second Revised Sheet No. 17A, with a proposed effective date of November 1, 1994.

ANR states that the purpose of the instant filing is to comply with the Commission's Letter Order dated October 31, 1994, by correcting the STS rate adjustment filed on September 30, 1994, from \$0.0139 to \$0.0117.

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 28, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson,
Acting Secretary.

[FR Doc. 94-29009 Filed 11-23-94; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP93-4-018]

Mississippi River Transmission Corp.; Notice of Refund Report

November 18, 1994.

Take notice that on November 1, 1994, Mississippi River Transmission Corporation (MRT) submitted a report of refunds made on September 27 and October 28, 1994, to its jurisdictional customers for the period of April 1, 1993, through July 31, 1994. According to MRT, these refunds are pursuant to the Stipulation and Agreement approved by the Commission's July 29, 1994, order in the above-referenced dockets. MRT states that four customers received additional refunds on October 27, 1994, for usage volumes inadvertently omitted from the September 27 refund distribution.

MRT states that copies of the filing were served upon each of the affected state commissions.

¹ 66 FERC ¶61,302.

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 28, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29010 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP94-399-004 and RP94-401-001]

**Natural Gas Pipeline Co. of America;
Notice of Compliance Filing**

November 18, 1994.

Take notice that on November 15, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet Nos. 215 and 216, First Revised Sheet No. 216A, Second Revised Sheet No. 233, Original Sheet No. 233A and Third Revised Sheet No. 355, to be effective December 1, 1994.

Natural states that the tariff sheets were submitted in compliance with the Federal Energy Regulatory Commission's (Commission) order issued October 17, 1994 at Docket Nos. RP94-399-000 and RP94-401-000. Natural has modified its Tariff to (1) delete the requirements that it file further quarterly reports and that it make a one-time operational data submission, and (2) include the Automatic Agency procedure which enables upstream shippers to utilize, through an agency arrangement, the priority of downstream firm shippers to which gas is delivered at a pooling point.

Natural requested waiver of its tariff or of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective December 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers, interested state regulatory agencies and all parties set out on the official service list at Docket Nos. RP94-399-000, et al.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 28, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29011 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP93-146-001]

**Panhandle Eastern Pipe Line Co.;
Notice of Proposed Refund**

November 18, 1994.

Take notice that on November 15, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing a proposal to make refunds to certain of its former sales customers.

Panhandle states that this proposed filing is to flowback the refund Panhandle received on October 4, 1993, from its pipeline supplier (Trunkline Gas Company) for transportation services provided to Panhandle for the period November 1992 through January 1993. Panhandle requests Commission approval of this proposal to be effective December 15, 1994.

Panhandle further states that previously, Panhandle had direct billed its remaining Unrecovered Transportation Cost Account (Account 858) in Docket No. RP93-146-000, dated June 30, 1993, approved by letter orders dated July 26, 1993 and August 11, 1993. Panhandle is proposing to utilize the same demand and commodity allocation factors established in that docket to determine each customers' proportionate share of the total refund.

Panhandle states that copies of its filing have been served on all affected customers, applicable state regulatory commissions and parties to this proceeding.

Any person desiring to protest the said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 28, 1994. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29012 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-416-001]

**Northern Natural Gas Co.; Notice of
Proposed Changes in FERC Gas Tariff**

November 18, 1994.

Take notice that on November 15, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that the changes were made in compliance with the Commission's Order issued in this proceeding on October 31, 1994, which are intended to clarify that SBA surcharge does not apply to Gulf Coast transactions.

Northern states that copies of this filing were served upon the company's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 28, 1994. All protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party to the proceedings. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29013 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-6-006]

**Northern Natural Gas Co.; Notice of
Proposed Changes in FERC Gas Tariff**

November 18, 1994.

Take notice that on November 15, 1994, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised

tariff sheet, to be effective December 15, 1994:

Fourth Revised Sheet No. 245

Northern states that the filing is being submitted in compliance with a Commission Order issued November 1, 1994, in Docket Nos. RP94-6, RP94-64, and RP94-154 (Not Consolidated) which approved a settlement and Pro Forma Tariff sheet filed in the referenced proceedings. Changes to the tariff sheet provide that future contract buyouts will be amortized over a twelve (12) month period if the cost of the buyout is less than the cost of twelve (12) months of demand charges under the contract.

Northern states that copies of this filing were served upon each party listed in the official service list in these proceedings, to each of Northern's customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 28, 1994. All protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party to the proceedings. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29014 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-48-000]

Koch Gateway Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 16, 1994, Koch Gateway Pipeline Company (Koch Gateway) tendered for as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1994:

Third Revised Sheet No. 1809
Third Revised Sheet No. 1810
Second Revised Sheet No. 1811
First Revised Sheet No. 1812
Second Revised Sheet No. 1813
First Revised Sheet No. 1814
Original Sheet No. 1815

Koch Gateway states that these tariff sheets are being filed to revise the scheduling procedure utilized for interruptible storage service. Koch

Gateway currently schedules Interruptible Storage Service (ISS) based on the highest space charge. Koch Gateway states that its proposal to base the scheduling of ISS service on the total average storage rate better reflects the full value of the service to its customers.

Koch Gateway also states that the tariff sheets are being mailed to all customers, State Commissions, and other interested parties.

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 regulations. All such motions or protests should be filed on or before November 28, 1994. Protests will be considered by the Commission in determining appropriate action 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.

Linwood A. Watson,

Acting Secretary.

[FR Doc. 94-29019 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-2-22-001]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 14, 1994, CNG Transmission Corporation (CNG), pursuant to Section 4 of the Natural Gas Act and Sections 15 and 16 of the General Terms and Conditions of its tariff (General Terms), and in compliance with the Commission's October 28, 1994, order in this docket, filed the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff:

Substitute Fifth Revised Sheet Nos. 32 & 33
Substitute Third Revised Sheet No. 34
Substitute Fourth Revised Sheet Nos. 35 & 36

CNG requests that these tariff sheets be made effective on November 1, 1994. CNG states that the purpose of the filing is to comply with the October 28 order, and in addition to correct CNG's original allocation of Rate Schedule IT revenue credits among its customers to include storage customers.

CNG states that copies of the filing were served upon affected customers and interested state commissions. Copies of the filing are also available

during regular business hours at CNG's offices in Clarksburg, West Virginia.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 28, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29020 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-44-000]

Equitrans, Inc.; Notice of Report on Storage Operations

November 18, 1994.

Take notice that on November 15, 1994, Equitrans Inc. (Equitrans) tendered for filing with the Commission its report pursuant to the Commission orders on Compliance with Restructuring Rule in Docket Nos. RS92-15, *et al.*, which required Equitrans to file a study within 60 days after the end of its first year of operations under restructured services.

Equitrans states that the orders required Equitrans to provide detailed information such as the amount of gas delivered; feasibility of customers meeting the cycling requirements; any operational drawbacks and/or benefits; and the total amount of penalties charged to customers who failed to meet the injection/withdrawal standards.

Equitrans states that its first year of restructured operations commenced on September 1, 1993 and concluded on August 31, 1994, and it is reporting information and analysis concerning the first year of restructural operations, in compliance with the Commission's orders.

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 regulations. All such motions or protests should be filed on or before December 12, 1994. Protests will be considered by the Commission

in determining appropriate action 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29015 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-3-23-001]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 14, 1994 Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective November 1, 1994.

Eastern Shore states that the above referenced tariff sheets are being filed pursuant to 154.309 of the Commission's regulations and Section 24 of the General and Conditions of Eastern Shore's FERC Gas Tariff to track changes made in storage service rates from Transcontinental Gas Pipe Line Corporation Columbia Gas Transmission.

Eastern Shore states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before November 28, 1994. Protests will be considered by the Commission in determining the appropriate steps to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29022 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-3-20-000]

Algonquin Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 14, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing its annual calculation of the surcharges and refunds designed to amortize the net monetary value of the balance in Algonquin's Fuel Reimbursement Quantity Deferred Account.

Algonquin states that copies of this filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR Sections 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 28, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29021 Filed 11-23-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-45-000]

Colorado Interstate Gas Co.; Notice of Filing of Proposed Changes in FERC Gas Tariff

November 18, 1994.

Take notice that on November 14, 1994, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised Tariff sheets:

First Revised Sheet No. 243
Second Revised Sheet No. 254
First Revised Sheet No. 259
Original Sheet Nos. 260-268
Second Revised Sheet No. 359

CIG has requested these tariff sheets become effective December 14, 1994.

CIG states it is proposing two changes to its tariff. First CIG is addressing the circumstance where a Shipper has

released capacity and the Replacement Shipper utilizes a Secondary Point. CIG is clarifying that it will bill the Original Shipper for all reservation charges applicable at the Secondary Point(s) even if those charges are higher than the Original Shipper is paying at the Primary Point(s). CIG states it will bill the Replacement Shipper only the amount that such party bid in order to acquire the capacity (through the capacity release program) unless the Original Shipper requires payment or reimbursement of reservation charges by the Replacement Shipper. CIG states this change is being made in keeping with the holdings of the Commission in *ANR Pipeline Company*, 66 FERC ¶ 61,340 (1994) and 68 FERC ¶ 61,009 (1994).

Secondly, CIG is proposing to change the section of its tariff concerning posting of affiliate discounts. CIG is proposing to post on its electronic bulletin board its discounts to affiliates 24 hours after the gas flows under the discounted transaction. CIG states that this change is being made in keeping with the Commissions holding in Order No. 566-A issued October 14, 1994.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before November 28, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94-29016 Filed 11-2-94; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of September 9 Through September 16, 1994

During the week of September 9 through September 16, 1994, the appeals and applications for exception

or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in

these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual

notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: November 16, 1994.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 9 through September 16, 1994]

Date	Name and location of applicant	Case No.	Type of submission
5/25/94	Bomac Exploration Co., Dallas, Texas	RR272-168	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92718) issued to Bomac Exploration Co. would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/94	Brinkerhoff-Signal, Dallas, Texas	RR272-169	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92719) issued to Brinkerhoff-Signal would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/94	France Drilling, Dallas, Texas	RR272-165	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92715) issued to France Drilling would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/94	Glasscock Drilling, Dallas, Texas	RR272-166	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92716) issued to Glasscock Drilling would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/94	Miller Drilling, Dallas, Texas	RR272-164	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92714) issued to Miller Drilling would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/95	Sabre Drilling, Dallas, Texas	RR272-167	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92717) issued to Sabre Drilling would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/25/94	TRG Drilling, Dallas, Texas	RR272-170	Request for Modification/Rescission in the Crude Oil Proceeding. If granted: The April 28, 1994 Decision and Order (Case No. RF272-92720) issued to TRG Drilling would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
9/9/94	Albuquerque Operations Office, Albuquerque, New Mexico.	VSO-0001	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at Los Alamos National Laboratory would receive a hearing under 10 CFR Part 710.
9/9/94	Independent-International Pictures Corp., East Brunswick, New Jersey.	LFA-0418	Appeal of an Information Request Denial. If granted: The August 17, 1994 Freedom of Information Request Denial issued by the Freedom of Information and Privacy Acts Branch would be rescinded and Independent-International Pictures Corp. would receive access to certain DOE information and visual materials concerning extra-terrestrial crafts and landings.
9/9/94	John P. Connelly, Mission Viejo, California	LFA-0419	Appeal of an Information Request Denial. If granted: The August 9, 1994 Freedom of Information Request Denial issued by the Office of Inspector General would be rescinded and John P. Connelly would receive access to certain DOE documents or notes relating to job vacancy announcements for the position of criminal investigator at various DOE facilities.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of September 9 through September 16, 1994]

Date	Name and location of applicant	Case No.	Type of submission
9/9/94	Michael Stewart, Moravia, New York	LFA-0417	Appeal of an Information Request Denial. If granted: The May 10, 1994 Freedom of Information Request Denial issued by the Minority Energy Information Clearinghouse, Office of Minority Economic Impact would be rescinded and Michael Stewart would receive access to certain information from the DOE's Minority Energy Information Clearinghouse.
9/9/94	William H. Payne, Albuquerque, New Mexico.	LFA-0416	Appeal of an Information Request Denial. If granted: The August 9, 1994 Freedom of Information Request Denial issued by the Office of Inspector General would be rescinded and William H. Payne would receive access to any DOE information concerning contacts between the Office of Inspector General and either Sandia National Laboratory or the Department of Justice.
9/16/94	Coker Oil Inc., Lake City, South Carolina	LEE-0161	Exception to the Reporting Requirements. If granted: Coker Oil Inc. would not be required to file form EIA-782B, "Resellers/Retailers Monthly Petroleum Products Sales Report."

NOTICES OF OBJECTIONS RECEIVED

[Week of September 9, 1994 thru September 16, 1994]

Date received	Name of refund applicant	Case No.
9/12/94	Bob's Gulf	RF300-21798
9/16/94	Herring National Lease, Inc.	RC272-254
9/13/94	American Farm Lines, Inc.	RA272-60
9/13/94	Yow's Gulf	RF300-21799

[FR Doc. 94-29085 Filed 11-23-94; 8:45 am]
BILLING CODE 6450-01-P

Issuance of Proposed Decisions and Orders During the Week of October 24 Through October 28, 1994

During the week of October 24 through October 28, 1994, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 C.F.R. 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, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: November 16, 1994.

George B. Breznay,
Director, Office of Hearings and Appeals.
Bender Oil Company, La Junta,
Colorado, Lee-0150, Reporting
Requirements

Bender Oil Company (Bender) filed an Application for Exception from the requirement that it file Form EIA-782B, entitled "Resellers/Retailers' Monthly Petroleum Product Sales Report." The Exception request, if granted, would permit Bender to be exempted from filing Form EIA-782B. On October 28, 1994, the Department of Energy issued

a Proposed Decision and Order which determined that the Exception request be denied.

Farmers Union Coop Oil Co., Perley,
Minnesota, Lee-0162; Reporting
Requirements

Farmers Union Coop Oil Co. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, on October 24, 1994 the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Olympic Oil Co., Inc., Delano,
Minnesota, Lee-0160, Reporting
Requirements

Olympic Oil Co., Inc. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. Accordingly, on October 24, 1994, the DOE issued a Proposed Decision and

Order determining that the exception request should be denied.

[FR Doc. 94-29084 Filed 11-23-94; 8:45 am]

BILLING CODE 6450-01-P

Final Filing Deadline in Special Refund Proceeding No. LEF-0003 Involving AOC Acquisition Corp.

AGENCY: Office of Hearings and Appeals, Department of Energy

ACTION: Notice of Final Deadline for Filing Applications for Refund in Special Refund Proceeding No. LEF-0003, Apex Oil Co., Apex Holding Co., Clark Oil & Refining Corp., Goldstein Oil Co., Novelly Oil Co. (AOC Acquisition Corp.)

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has set the final deadline for filing Applications for Refund from the escrow account established pursuant to a consent order entered into between the DOE and AOC Acquisition Corp., Special Refund Proceeding No. LEF-0003. The previous deadline was July 31, 1992. The new deadline is January 31, 1995.

FOR FURTHER INFORMATION CONTACT:

Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585, (202) 586-2094.

SUPPLEMENTARY INFORMATION: The Office of Hearings and Appeals of the Department of Energy is hereby setting a final deadline for the filing of Applications for Refund in the AOC Acquisition Corp. (AOC) refund proceeding. On August 20, 1991, we issued a Decision and Order setting forth final refund procedures to distribute the monies in the oil overcharge escrow account established in accordance with the terms of a consent order entered into by the DOE and AOC's predecessor companies. See *Apex Oil Co., Apex Holding Co., Clark Oil & Refining Corp., Goldstein Oil Co., Novelly Oil Co.*, 21 DOE ¶ 85,341 (1991), 56 Fed. Reg. 50719 (October 8, 1991). That Decision established July 31, 1992 as the filing deadline for purchasers of Clark refined products to submit refund applications.

Since July 31, 1992, we have routinely granted extensions of time to Clark customers who were unaware of the proceeding or were in the process of gathering information to support their refund claims. We have now received 327 refund applications. Given that the proceeding has been open for three years, we have concluded that eligible

applicants have been provided with more than ample time to file. We will therefore not accept applications that are postmarked after January 31, 1995. All Applications for Refund from the AOC Consent Order Fund postmarked after the final filing date of January 31, 1995, will be summarily dismissed. Any unclaimed funds remaining after all pending claims are resolved will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501.

Dated: November 16, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94-29083 Filed 11-23-94; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5111-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 27, 1994.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: National Oil and Hazardous Substances Pollution Contingency Plan (EPA ICR #1463.03; OMB #2050-0096). This ICR requests renewal of the existing clearance.

Abstract: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and as amended in 1986, establishes broad Federal authority to undertake removal and remedial actions in response to releases or threats of releases of hazardous substances and certain pollutants and contaminants into the environment. The NCP

establishes procedures for data collection, analysis, and reporting to be conducted during remedial and removal actions at Superfund sites.

The Response Program is comprised of activities that fall into two phases: the pre-remedial phase, during which the extent of contamination at a site is assessed and those sites that represent the highest priority cleanup are identified; and the remedial phase, during which investigations are conducted to determine viable remedies for a site, a remedy is chosen and constructed, and the long-term operation and maintenance of the remedy is conducted.

This information collection addresses only the reporting and recordkeeping requirements in the remedial phase of the response program under the current NCP.

The remedial phase begins once a site plan is proposed for listing on the National Priorities List. A detailed project plan is developed, and a Remedial Investigation and Feasibility study (RI/FS) is begun. The RI/FS is a detailed site evaluation and analysis conducted to determine the alternatives to be used to clean up a site. A progress report summarizes the results, and a proposed plan is developed which identifies the preferred alternatives and informs the public about how to participate in the remedy selection process. The final action is selected based on the RI/FS and public comment, and is documented in a Record Decision (ROD). Remedial action begins following Agency signoff on the ROD.

Burden Statement: The average annual reporting burden for a state government that has the lead at a Superfund site is estimated to be 5,620 hours per site. This estimate includes time required to review instructions, search existing data sources gather and maintain the needed data, estimate the information required, and complete and review the collection of information. The average recordkeeping burden for a state government that has the lead at a Superfund site is estimated to be 620 hours per site.

The reporting burden for community members is estimated to average 330 hours per site. This reporting burden includes time required to attend public meetings, interviews, or other review activities. There is no recordkeeping burden for community members.

States are not required to take on the role of the lead agency in remedial actions, and if they do accept the lead role in a Superfund financed action, they are reimbursed by the Fund for their work.

Respondents: Any state which has the lead in remedial activities (in compliance with Federal standards at Superfund sites), and community members participating in the determination of remedial activities at a Superfund site.

Estimated No. of Respondents: 168 (8 state-lead sites, 160 communities).

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: As needed to determine an optimal remedial action at a Superfund site.

Estimated Total Annual Burden on Respondents: 191,000 hours.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: November 16, 1994.

Paul Lapsley,

Director, Regulatory Management Division.
[FR Doc. 94-28962 Filed 11-23-94; 8:45 am]

BILLING CODE 6580-50-M

[FRL-5106-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before December 27, 1994.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of this ICR contact Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Hazardous Waste Generator Standards (EPA No. 820.06). This ICR is a renewal of an approved collection (OMB No. 2050-0035).

Abstract: The informational requirements for hazardous waste generators include pre-transport (separate for large and small quantity generators), export, and recordkeeping requirements. Pre-transport requirements for large quantity generators (LQGs) include documenting certain personnel information, such as job description and training, for positions dealing with hazardous wastes; preparing and maintaining contingency plans; complying with emergency reporting requirements; and recording when local firehouses decline to become more familiar with the generator's facility and its waste. Also, LQGs using tank systems for accumulating hazardous waste may need to submit to one or more of the following: a no-free-liquids demonstration, existing tank system assessments, an equivalent containment exemption, a variance from secondary containment requirements, annual leak tests and inspections, an exemption from the 24-hour leak detection requirement, new tank system assessments and certifications, an exemption from the 24-hour waste removal requirement, release notifications and reports, and major repair certifications. Pre-transport requirements for small quantity generators (SQGs) include notification in the event of a fire, explosion, or other release threatening human health outside the facility or when the generator has knowledge that a spill has reached surface water.

Export requirements include: providing notification of intent to export hazardous waste, renotification if conditions are altered, filing an annual report summarizing information on all wastes exported, filing exception reports where applicable, maintaining copies of relevant documents for a period of three years, and under certain circumstances providing additional information, as requested by the receiving country. The Agency uses the information as an enforcement tool, and to ensure that all hazardous waste generated in the United States is managed in a manner protective of human health and the environment.

All generators are required to keep records of test results, waste analyses, or other records documenting that a waste is hazardous for at least three years.

Burden Statement: The estimated average public burden per response for this collection is about 15 hours for large quantity generators, 2 hours for small quantity generators, 5 hours for exporters, and 2 hours for importers. This estimate includes all aspects of the information collection, including recordkeeping.

Respondents: Hazardous Waste Generators.

Estimated Number of Respondents: 67,037.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 153,222 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: November 17, 1994.

Paul Lapsley,

Director, Regulatory Management Division.
[FR Doc. 94-28965 Filed 11-23-94; 8:45 am]
BILLING CODE 6580-50-F

[FRL-5111-7]

Approval of Revisions to the State of Michigan's Federally Approved Wetland Program Resulting From the Reorganization of the Michigan Department of Natural Resources

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the United States Environmental Protection Agency (U.S. EPA) approves the revisions to the State of Michigan's federally approved wetland program resulting from the reorganization of the Michigan Department of Natural Resources (MDNR) by Executive Order 1991-31.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION: Douglas Ehorn, Chief, Wetlands and Watersheds Section, U.S. EPA, Region 5, 77 W. Jackson (WQW-16J), Chicago, Illinois, 60604. (312) 353-2308

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 1984, EPA published notice of its approval of the State of Michigan's Section 404 wetlands program pursuant to Section 404(g)(1) of the Clean Water Act, 33 U.S.C. 1344(g)(1). 49 FR 38948. Michigan's program became effective October 16, 1984. 49 FR 38948 (October 2, 1984). 40 CFR 233.60.

40 CFR 233.16 requires that EPA review and either approve or disapprove of any revisions to a state's Section 404 wetlands program based upon whether the revisions comply with the requirements of the Clean Water Act and its implementing regulations. 40 CFR 233.16(d)(3) provides that, if EPA determines that a program revision is substantial, EPA must provide public notice and an opportunity for public hearing on the revision.

Michigan's original program description submitted to EPA on October 26, 1983 specified that the Michigan Department of Natural Resources (MDNR) was the agency responsible for implementing the permitting and enforcement components of Michigan's Section 404 wetlands program. The Michigan Water Resources Commission (MWRC) was specified as the agency responsible for insuring that wetland permitting was coordinated with state, interstate and federal-state water related planning and review processes.

On November 8, 1991, the Governor of Michigan issued Executive Order 1991-31. Executive Order 1991-31, which became effective on September 2, 1993, provides that:

All the statutory authority, power, duties, functions and responsibilities of the Commission of Natural Resources and the Department of Natural Resources * * * and of the director of the Department of Natural Resources and of the agencies, boards and commissions contained therein * * * are hereby transferred to the director of a new Michigan Department of Natural Resources, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

Executive Order 1991-31 also provided that the responsibilities and authorities of the MWRC were transferred, via a Type III transfer, from the Water Resources Commission to the director of a new MDNR.

Pursuant to EPA's request, Michigan submitted numerous documents to EPA that were necessary for EPA to determine whether the revisions to Michigan's Section 404 wetlands program resulting from Executive Order

1991-93 would comply with the requirements of the Clean Water Act and its implementing regulations and whether such revisions were substantial. According to Michigan, there had been no substantive changes in Michigan's Section 404 wetlands program as a result of Executive Order 1991-31. Instead, according to Michigan, Executive Order 1991-31 merely resulted in some reorganization within MDNR. Michigan certified in an Attorney General's Statement that all of the state authorities included in Michigan's original October 26, 1983 program description remained in full force and effect after issuance of Executive Order 1991-31.

Based upon its review of the documents submitted by Michigan, EPA made a preliminary determination that there had been no substantial revisions in Michigan's Section 404 wetlands program as a result of Executive Order 1991-31. However, because there appeared to be a significant amount of public interest in this matter, EPA chose to seek public comment on its determination. Consequently, on April 21, 1994, EPA published a notice in the *Federal Register* of EPA's preliminary determination and stated that "EPA is seeking public comment concerning whether any substantial revisions to the State wetlands program were effected by the MDNR reorganization, and comment on Agency approval or disapproval of any revisions to Michigan's wetlands program as outlined in Executive Order 1991-93 and MDNR's December 15, 1993 submittal." The notice further emphasized that "EPA is not seeking at this time, public comment on unrelated issues regarding Michigan's wetland program." Finally, the notice stated that copies of Michigan's description of the wetlands program, related correspondence and EPA's findings of no substantial revisions would be available for public inspection at two locations in Michigan.

II. Comments

In response to the April 21, 1994 notice, EPA received comments from nine commenters who disagreed with EPA's preliminary determination that Executive Order 1991-31 did not substantially revise Michigan's wetlands program. In addition, the United States Department of Interior, Fish and Wildlife Service, stated that it agreed with EPA's preliminary determination that Executive Order 1991-31 did not substantially revise Michigan's wetland program and offered two additional comments. EPA's detailed responses to all comments received are set forth in a document entitled "Response to

Comments Raised Regarding Revisions to Michigan Wetland Program." This document can be obtained from Mr. Douglas Ehorn at the address and phone number listed above. A summary of the comments and EPA's responses to the comments is provided below.

There were several comments that Executive Order 1991-31 has revised the public participation requirements in Michigan's Section 404 wetlands program. Under 40 CFR 233.16(d)(3), changes in public participation requirements must be considered to be substantial changes. These commenters, therefore, believe that Executive Order 1991-31 has effected a substantial revision in Michigan's wetland program.

The public participation requirements for state Section 404 wetland programs are set forth at 40 CFR 233.32-34. These provisions contain specific requirements regarding the need for, timing of, information contained in, method of providing, and persons to be provided public notice of permit applications, draft general permits and consideration of major permit modifications (40 CFR 233.32); the need for and method of conducting public hearings (40 CFR 233.33); and the manner in which public comments must be considered and included in the official record in making permit determinations (40 CFR 233.34). Michigan, in its October 26, 1983 program description, demonstrated that the MDNR had authority to comply with all of the above requirements.

As described above, MDNR is still the authority responsible for processing and making determinations regarding wetland permit applications in Michigan. None of the public participation requirements that were applicable to MDNR in processing and making determinations regarding wetland permit applications have changed as a result of Executive Order 1991-31. Therefore, EPA did not receive any comments that suggested that the public participation requirements applicable to MDNR in the processing and issuance of wetland permits had been changed or were in any way not in compliance with the requirements of the Clean Water Act and the public participation requirements of 40 CFR 233.32-34. Instead, the comments on public participation focussed on three other issues.

First, one commenter stated that public participation in the development of administrative rules implementing Michigan's wetlands program has changed in that the Director of the MDNR now establishes the administrative rules by which the program is administered rather than the

Michigan Natural Resources Commission ("MNRC"). This commenter stated that the Director of MDNR, unlike MNRC, is not subject to Michigan's Open Meetings Act and therefore the Director can make final decisions on administrative rules pertaining to the wetlands program in closed meetings and the substance of those meetings need not be recorded. The commenter suggested that this represents a significant change from the way in which MNRC developed administrative rules for Michigan's wetlands program.

EPA does not agree that this apparent change in the manner in which administrative rules are developed represents a change in Michigan's Section 404 wetlands program. A state's federally authorized Section 404 wetlands program consists of the statutes and rules which govern the state's program. EPA has no role to play in overseeing or dictating how those statutes and rules are developed. Instead, EPA's role is to determine whether the statutes and rules which comprise the program comply with minimum federal requirements for authorized programs, regardless of how the state has developed those statutes and rules. If the state desires to change those statutes or rules, EPA has no role in determining the manner in which those statutes or rules are changed, so long as the state submits the proposed changes to EPA for review. Consequently, the applicability or inapplicability of the State's Open Meetings Act to changes in administrative rules does not represent a change in Michigan's Section 404 wetlands program.

The second reason suggested by commenters that Executive Order 1991-31 effected a change in public participation requirements pertains to changes involving the manner in which Michigan "assure[s] that any state * * * whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting state" and "assures continued coordination with Federal and Federal-State water related planning and review processes" as required by Sections 404(h)(1)(E) & (H) of the Clean Water Act, 33 U.S.C. § 1344(h)(1)(E) & (H). In Michigan's original program description submitted to EPA on October 26, 1983, Michigan stated that it could assure such coordination because "[t]he broad powers that were statutorily allotted to Michigan's Water Resource Commission ["MWRC"] are more than sufficient" to provide such assurances.

Commenters noted that Executive Order 1991-31 abolished MWRC and

transferred its responsibilities and authorities to the Director of MDNR. These commenters claimed that MWRC was subject to the Open Meetings Act while the Director of MDNR is not. Consequently, these commenters suggest, there has been a change in the opportunities for public participation in the "Federal and Federal-State water related planning and review processes." These commenters go on to suggest that, because Michigan's Section 404 wetlands program must assure coordination with these planning processes, a change in the public's opportunity to participate in those planning and review processes constitutes a change in the wetlands program's public participation provisions. EPA does not agree that changes in Federal and Federal-State planning and review processes in the State of Michigan are changes in Michigan's Section 404 wetlands program.

Section 404(h)(1)(E), 33 U.S.C. 1344(h)(1)(E), requires that state wetland programs "assure that any State * * * whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State." Similarly, Section 404(h)(1)(H), 33 U.S.C. 1344(h)(1)(H), requires that state wetland programs "assure continued coordination with Federal and Federal-State water-related planning and review processes." Nothing in either section or anywhere else in Section 404 or the regulations implementing Section 404 requires that a state, as part of its Section 404 wetlands program, assure that the public is allowed to participate in any Federal, Federal-State or interstate coordinating processes. EPA's review of Michigan's Section 404 wetlands program, therefore, is limited to a review of whether Michigan's Section 404 wetlands program contains provisions which assure the interstate, intrastate and Federal-State coordination required by Sections 404(h)(1)(E) and (H). As described below, EPA has determined that Michigan's Section 404 wetland program does contain such assurances.

Section 323.1 *et seq.* of Michigan's Compiled Laws (Mich. Comp. Laws) established MWRC. Mich. Comp. Laws § 323.2a(1) provides that "[t]he water resources commission is designated the state agency to cooperate and negotiate with other governments, governmental units and agencies thereof, in matters concerning the water resources of the state, including but not limited to flood control, beach erosion control and water quality control planning, development and management." Michigan, in its

October 26, 1983 program description, relied upon Mich. Comp. Laws § 323.2a(1) as the basis for assuring EPA that the interstate, intrastate and Federal-State coordination required by Sections 404(h)(1)(E) and (H) would occur. Section III.B.1 of Executive Order 1991-31 transferred all of these duties and authorities from the MWRC to the Director of MDNR and the Michigan Attorney General has certified that these authorities remain in full force and effect. Consequently, Michigan's Section 404 wetlands program assures that the interstate, intrastate and Federal-State coordination required by Sections 404(h)(1)(E) and (H) shall take place through the MDNR.

A number of commenters noted that the Michigan Attorney General's Statement failed to specifically mention that MDNR, rather than MWRC, would be responsible for the interstate, intrastate and Federal-State coordination described above. According to these commenters, this claimed failure rendered Michigan's modified program description "deficient on its face and, as a matter of law, [provides] an inadequate basis for public comment and provides EPA with an inadequate basis on which to determine whether or not the Michigan wetlands permitting program currently complies with applicable federal requirements." EPA disagrees.

The basis for these commenters concern is their apparent belief that EPA must limit its review in this matter to the documents included with Michigan's December 15, 1993 letter to EPA, which included the Attorney General's Statement and Michigan's original October 26, 1983 program description. However, 40 CFR 233.16(d)(1) provides that a State may submit "a modified program description or other documents which [EPA] determines to be necessary to evaluate whether the program complies with the requirements of the Act and this part" (emphasis added). As described above, Michigan submitted a number of other documents to EPA in addition the December 15, 1993 letter, including a September 20, 1993 letter from Michigan which contained Executive Order 1991-31. As noted above, EPA's determination that Michigan's Section 404 wetlands program assures interstate, intrastate and Federal-State coordination is based upon the Attorney General's Statement, Michigan's October 26, 1983 program description, and Executive Order 1991-31. All of these documents were included in the administrative record which was made available for public review after EPA

made its preliminary determination on April 21, 1994.

The third set of comments regarding how Executive Order 1991-31 effected a change in public participation requirements pertained to the roles formerly played by the MWRC and the Michigan Natural Resources Commission ("MNRC") as public "sounding boards" and sources of information pertaining to wetlands issues. According to these commentators, Executive Order 1991-31, in abolishing the MWRC and changing the role of the MNRC effected a change in public participation because the public now has less of an opportunity to understand issues or being decided or express concerns regarding the state's wetland program. EPA does not agree that this represents a change in the public participation provisions of Michigan's Section 404 wetlands program.

As described above, Michigan's original October 26, 1983 program description indicated that federal public participation requirements would be met based upon state statutory and regulatory requirements applicable to MDNR. There is nothing in Michigan's original program description which indicated that either MWRC or MNRC would play any role as part of Michigan's Section 404 wetlands program in assuring compliance with federal public participation requirements. Consequently, although these commissions may in fact have provided the public additional opportunities to receive information about and to comment on wetland issues, those opportunities were above and beyond the opportunities which were reviewed and approved by EPA as part of Michigan's Section 404 wetlands program. Consequently, the abolishment of MWRC and change in role for MNRC did not revise the public participation provisions of Michigan's Section 404 wetlands program.

There were a number of comments regarding perceived changes in Michigan's Section 404 wetlands program that have occurred since it was first approved by EPA in 1984, but which were not related in any way to Executive Order 1991-31. For example, commentators suggested that Michigan agencies and courts have interpreted the "feasible and prudent alternatives" test under Michigan law in a manner inconsistent with the Clean Water Act Section 404(b)(1) guidelines.

As was stated in the April 21, 1994, Federal Register notice, EPA's review in this matter is limited to a review of the revisions in Michigan's Section 404 wetlands program that have resulted

from Executive Order 1991-31. A number of commenters stated that EPA cannot so limit its review. These commenters pointed to 40 CFR 233.1(b) which provides that "[p]artial State programs are not approvable under section 404." EPA does not agree that 40 CFR 233.1(b) is applicable here.

The prohibition on approval of "[p]artial State programs" at 40 CFR 233.1(b) comes into play at the time when a state is initially seeking federal approval of its Section 404 wetlands program. At that time, there is no Section 404 wetlands program in the state. If the state fails to address all of the Section 404 requirements, 40 CFR 233.1(b) would prohibit EPA from approving the program. The present matter involves review of possible revisions to Michigan's already approved Section 404 wetlands program.

40 CFR 233.16 contains the requirements pertaining to program revisions. 40 CFR 233.16(a) requires that a State keep EPA informed of changes in the State's statutory or regulatory authority or other modifications which are significant to administration of the State's authorized program. Under 40 CFR 233.16(e), EPA may request and a State must provide documents or information whenever EPA believes that circumstances have changed with respect to the State's program. Finally, whenever EPA or a State finds that the State program is in need of revision, EPA must review and approve or disapprove of such revision. 40 CFR 233.16(d).

In the present matter, EPA requested that Michigan submit information to EPA pursuant to 40 CFR 233.16 on whether any revisions occurred in Michigan's federally approved Section 404 wetlands program as a result of Executive Order 1991-31. EPA has not requested information pertaining to any other issues regarding Michigan's Section 404 wetlands program. EPA is therefore limiting its review to the effects of Executive Order 1991-31.

EPA appreciates the comments received on these matters, has forwarded them to Michigan and will consider them in the context of EPA's ongoing oversight of Michigan's wetlands program. If, in the course of its ongoing oversight, EPA determines that a program revision has occurred in any of the ways described in the comments, EPA will take the appropriate steps as set forth at 40 CFR 233.16 to review and approve or disapprove of the revisions.

There was one other comment, in addition to the comment pertaining to the feasible and prudent alternatives test, which suggested that Michigan's

wetland program failed to comply with the Clean Water Act and its implementing regulations. This comment was that Executive Order 1991-31 has "substantially changed the criteria and burden of proof by which the permitting agency routinely reviews or decides upon permits, thereby allowing agency action to take place without assurance of minimum-floor compliance with the Section 404(b) guidelines as required by 40 CFR 233, part 50." According to the commenter, "[t]he Michigan Department of Natural Resources's ("MDNR") flow-chart for decision making * * * allows an agency to apply overly vague and broad evidentiary tests to routine agency decisions when considering issuance of wetland permits."

EPA does not agree that Executive Order 1991-31 has caused the changes suggested by the commenter. There is no indication in any of the materials submitted by Michigan regarding any changes in criteria or burden of proof for decisionmaking. EPA is not aware of any MDNR "flow-chart" that addresses wetland issues. The sole flow-charts in the documents submitted by Michigan to EPA are flow charts contained in a December 13, 1991 Draft Plan for the Implementation of Executive Order 1991-31. Those flow-charts specifically pertain to National Pollutant Discharge Elimination System (NPDES) permits and permits to construct air emission sources. The December 13, 1991 Draft Plan also specifically states that the wetland permitting process remains unchanged by Executive Order 1991-31.

The United States Department of Interior, Fish and Wildlife Service provided comments noting that it agreed with EPA that Executive Order 1991-31 did not effect any substantial revisions in Michigan's Section 404 wetland program. The Fish and Wildlife Service also noted that there are a number of federally listed threatened and endangered species present in Michigan and that, if EPA determines that EPA's approval or disapproval of the revisions in Michigan's Section 404 wetlands program may affect these species, EPA would be required under Section 7(a) of the Endangered Species Act to consult with the Fish and Wildlife Service.

As described above, Executive Order 1991-31 has not caused any substantive changes in Michigan's Section 404 wetlands program. Instead, the only effects that Executive Order 1991-31 have had on Michigan's Section 404 wetlands program have been to reorganize the MDNR and transfer certain authorities and duties of the MWRC to MDNR. EPA therefore has determined that its approval of these

revisions in Michigan's Section 404 wetlands program will not affect endangered species.

A number of commenters noted that, pursuant to 40 CFR § 233.16(c), a state may not transfer all or part of its Section 404 program "from the approved State agency to any other State agency" until the new agency is approved by EPA. These commenters claimed that Executive Order 1991-31 effectively abolished the "old" MDNR and created a "new" MDNR. These commenters suggested that this transfer of authority from the "old" MDNR to the "new" MDNR constituted a transfer of authority from an "approved Agency to any other State agency."

EPA has determined that the revisions to Michigan's Section 404 wetlands program resulting from Executive Order 1991-31 are consistent with the requirements of the Clean Water Act and its implementing regulations. Consequently, MDNR is authorized to administer Michigan's Section 404 wetland program. The question of whether MDNR remained the same agency or whether it became "any other State agency" as a result of Executive Order 1991-31, and therefore whether it was authorized to administer Michigan's Section 404 wetlands program, is not at issue here. Nevertheless, due to the significant number of comments on this issue, EPA believes it is appropriate to address this question here.

EPA recognizes that the Michigan Supreme Court has made clear that Executive Order 1991-31 created a "new" MDNR. *Dodak v. Engler*, 443 Mich. 560 (1993). However, the Michigan Attorney General, in a letter dated November 8, 1993, has stated that the Executive Order did not create a new agency. In either event, the question of whether MDNR is a "new" agency under state law is not controlling with respect to whether there has been a transfer of authority from an "approved Agency to any other State agency." Instead, it is EPA's regulations which are controlling on this issue.

EPA's regulations at 40 CFR 233.16(c) do not provide clear guidance on whether the reorganization and consolidation of environmental programs accomplished by Executive Order 1991-31 constitutes a "transfer" of authority requiring prior EPA approval. The preamble to the 1988 state wetland program regulations similarly fails to provide any such guidance. See 53 FR 20764 (June 6, 1988). However, the 1980 preamble to the final National Pollutant Discharge Elimination System ("NPDES") state program rule, in addressing language at

40 CFR 123.62(c) which is similar to that at 40 CFR 233.16(c), stated:

It was not the intent of the proposal nor is it of these final regulations to require EPA review in such cases ["nominal changes" in state agencies]. Only when controlling Federal or State statutory or regulatory authority is modified or supplemented, or when the State proposes to transfer all or part of a program from an approved State agency to another State agency may EPA approval be necessary. Changes solely to the internal structure of an approved State agency, with no changes in the overall authority of the agency, do not require EPA approval.

45 FR 33290, 33384 (May 19, 1980). Consistent with the above preamble language, EPA interprets the language of 40 CFR 233.16(c) as not applying to a mere restructuring or internal consolidation of environmental programs within a state's executive branch. Instead, the prior EPA approval requirement in 40 CFR 233.16(c) applies in situations where such restructuring or consolidation impacts the controlling authorities by which a state implements the Section 404 wetland program.

As described above, MDNR has been the approved State agency for implementation of Michigan's Section 404 wetland program both before and after the Executive Order. MDNR's authority and responsibilities under State law pertaining to wetland matters were not affected by Executive Order 1991-31. Consequently, there have been no changes of any significance to the function or structure of the portions of MDNR that has been approved to implement Michigan's Section 404 wetland program. Therefore, EPA does not agree with the commenters that Executive Order 1991-31 constituted a transfer of authority from an "approved Agency to any other State agency."

Finally, a number of commenters requested that EPA provide a public hearing on this matter. Pursuant to 40 CFR 233.16(d)(3), EPA is required to provide an opportunity for a public hearing whenever a proposed revision is substantial. 40 CFR 233.16(d)(3) provides that "substantial revisions include, but are not limited to, revisions that affect the area of jurisdiction, scope of activities regulated, criteria for review of permits, public participation, or enforcement capability."

EPA has determined that Executive Order 1991-31, in reorganizing MDNR and transferring responsibilities for assuring interstate, intrastate and federal-state coordination on wetland matters from MWRC to MDNR, has not affected a substantial change in Michigan's Section 404 wetlands program. EPA notes that these changes have not affected any of the items listed

in 40 CFR 233.16(d)(3). Moreover, EPA has found that the comments sufficiently addressed any issues relevant to the effects of Executive Order 1991-31 and therefore has determined that a public hearing would not be useful to aid in this review. EPA, therefore, is not providing an opportunity for a public hearing.

III. EPA's Final Determination

EPA, after review and consideration of all the information submitted by Michigan and the comments received, has determined that the revisions to Michigan's wetland program effected by Executive Order 1991-31 comply with the Clean Water Act and its implementing regulations. Moreover, EPA has determined that the revisions were not substantial.

Dated: November 3, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94-28972 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-P

[ER-FRL-4717-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 7, 1994 through November 11, 1994 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 8, 1994 (59 FR 16807).

Draft EISs

ERP No. D-USA-G11027-NM Rating EC2

White Sands Missile Range (WSMR), Implementation, Range-wide, Las Cruces, NM.

Summary

EPA expressed environmental concern regarding cumulative impacts and requested that the final EIS discuss this issue in greater detail.

Final EISs

ERP No. F-CDB-C80013-NY

Southwest Middle School Project, Construction and Operation, Site Approval and CDBG Funds, City of Rochester, Monroe County, NY.

Summary

EPA believed that the implementation of this project will not result in any significant adverse environmental impacts. Accordingly, EPA had no objection to its implementation.

ERP No. F-COE-G32053-LA

Port Fourchon Navigation Channel Project, Channel Deepening, Implementation, Lafourche Parish, LA.

Summary

EPA had no objection to the project as proposed. The Final EIS adequately addressed EPA's comments on the Draft EIS.

ERP No. F-DOI-L39051-AK

Institute of Marine Science Infrastructure Improvement, Long-Term Research and Monitoring of the Ecosystem affected by the Exxon Valdez Oil Spill, Funding, Seward, AK.

Summary

EPA had no objection to the preferred alternative as described in the EIS.

ERP No. F-EPA-E90014-FL

Tampa Bay Area Ocean Dredged Material Disposal Site (ODMDS) Designation for Material Not Suitable for Beach Nourishment and Other Suitable Disposal Options, Offshore Tampa, FL.

Summary

ERP No. F-FHW-K40183-CA
Eastern Transportation Corridor (ETC) Construction, CA-231 between the Riverside/CA-91 and Santa Ana/I-5 Freeways, Funding and COE Section 404 Permit, Orange County, CA.

Summary

EPA expressed environmental concerns for the minimal consideration of emission impacts of travelling at speeds greater than 55mph, and for the lack of response to the mitigation acreage recommendations of the California Fish and Game Department.

ERP No. FS-COE-A36364-LA

Lake Pontchartrain and Vicinity Hurricane Protection Project, Fish and Wildlife Mitigation Plan, St. John the Baptist, St. Charles, Orleans and St. Bernard Parishes, LA.

Summary

Review of the final EIS was not deemed necessary. No comment letter was sent to preparing Agency.

ERP No. FS-NPS-K61085-00

Lake Mead National Recreation Area, General Management Plan, Updated

Information on Willow Beach Development Concept Plan Amendment, AZ and NV.

Summary

Review of the final EIS was not deemed necessary. No comment letter was sent to the preparing Agency.

Dated: November 21, 1994.

William D. Dickerson,

Director, Federal Agency Liaison Division, Office of Federal Activities.

[FR Doc. 94-29093 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-P

[ER-FRL-4717-6]**Environmental Impact Statements; Notice of Availability**

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075.

Weekly receipt of Environmental Impact Statements Filed November 14, 1994 Through November 18, 1994 Pursuant to 40 CFR 1506.9.

EIS No. 940459, FINAL EIS, BLM, OR, Medford District Resource Management Plan, Implementation, Medford District, Douglas, Jackson, Coos and Curry, OR, Due: December 27, 1994, Contact: Jim Keeton (503) 770-2200.

EIS No. 940460, FINAL EIS, BLM, OR, Coos Bay District Resource Management Plan, Implementation, Coos Bay District, Coos, Curry and Douglas Counties, OR, Due: December 27, 1994, Contact: Bob Gunther (503) 756-0100.

EIS No. 940461, FINAL EIS, BLM, OR, Salem District Resource Management Plan, Implementation, Several Counties, OR, Due: December 27, 1994, Contact: Bob Saunders (503) 375-5634.

EIS No. 940462, FINAL EIS, BLM, OR, Eugene District Resource Management Plan, Implementation, Lane, Linn, Douglas and Benton Counties, OR, Due: December 27, 1994, Contact: Don Wilbur (503) 683-6994.

EIS No. 940463, FINAL EIS, BLM, OR, Klamath Falls Resource Management Plan, Implementation, Lakeview District, Klamath County, OR, Due: December 27, 1994, Contact: A. Barron Bail (503) 883-6916.

EIS No. 940464, FINAL EIS, BLM, OR, Roseburg District Resource Management Plan, Implementation, Roseburg District, Coast Range, Benton, Curry, Douglas, Jackson, Josephine and Linn Counties, OR,

Due: December 27, 1994, Contact: Phil Hall (503) 440-4930.

EIS No. 940465, DRAFT EIS, FRC, WA, Snoqualmie Falls Hydroelectric Project, (FERC. Project NO.2493), Relicensing, Snoqualmie River, King County, WA, Due: January 23, 1995, Contact: Kathleen Sherman (202) 219-2834.

EIS No. 940466, FINAL EIS, COE, PR, Rio Guanajibo River Basin Flood Protection Project, Implementation, NPDES Permit, Mayaguez and San German, PR, Due: December 27, 1994, Contact: William J. Fonferek (904) 232-2803.

EIS No. 940467, DRAFT EIS, NRC, NM, Crownpoint Uranium Solution Mining Project, Construction and Operation, Leasing and Licensing, McKinley County, NM, Due: January 09, 1995, Contact: Joe Holonich (301) 415-6643.

EIS No. 940468, DRAFT EIS, IBR, CA, Cachuma Water Supply Project, Implementation, Long-term Contract Renewal, Santa Ynez Valley, Bradbury Dam, Santa Barbara, CA, Due: January 09, 1995, Contact: Bob May (209) 487-5137.

EIS No. 940469, FINAL EIS, FHW, FL, Wonderwood Connector Transportation Facility, Construction, connecting the Dame Point Expressway (SR-9A) in the Arlington District to Mayport Road (SR-101), Funding, Section 10 and 404 Permits and NPDES Permit, City of Jacksonville, Duval County, FL, Due: December 27, 1994, Contact: J. R. Skinner (904) 942-9580.

EIS No. 940470, DRAFT EIS, FHW, MA, US 6 Transportation Improvements Project, between the towns of Dennis and Orleans on Cape Cod, Funding, Coast Guard Bridge Permit and COE Section 10 and 404 Permits, Barnstable County, MA, Due: January 09, 1995, Contact: Edward Holahan (617) 494-2469.

EIS No. 940471, FINAL EIS, FRA, CT, MA, Northeast Corridor Improvement Project, Implementation, Electrification of the Rail Main Line from New Haven to Boston, Funding, COE Section 10 and 404 Permits, New Haven, CT and Boston, MA, Due: December 27, 1994, Contact: Mark Yackmetz (202) 366-0686.

EIS No. 940472, DRAFT SUPPLEMENT, AFS, UT, East Fork Black Forks Multiple Use Management Project, Updated Information, Implementation, Wasatch-Cache National Forest, Evanston Ranger District, Summit County, UT, Due:

January 20, 1995, Contact: Liz Schuppert (307) 789-3194.

EIS No. 940473, FINAL EIS, CGD, CA, Ford Bridge (Known as Henry Ford (Badger Avenue) Railroad Bridge) Replacement Project, Implementation, across the Cerritos Channel of Los Angeles and Long Beach Harbor, Approval of Permits, Los Angeles County, CA, Due: December 27, 1994, Contact: Wayne Till (510) 437-3514.

EIS No. 940474, FINAL SUPPLEMENT, DOE, SC, Savannah River Site, Construction and Operation of Defense Waste Processing Facility, Updated Information, Aiken and Barnwell Counties, SC, Due: January 09, 1995, Contact: Carol M. Borgstrom (202) 586-4600.

EIS No. 940475, DRAFT EIS, DOE, PA, York County Energy Partners Cogeneration Facility, Funding, Construction and Operation, 250 Megawatt Coal-Fired Cogeneration Facility, Clean Coal Technology Program (CCTP), North Codorus Township, York County, PA, Due: January 10, 1995, Contact: Suellen Van Ooteghem (304) 285-5443.

Amended Notices

EIS No. 930321, DRAFT EIS, AFS, WA, Pebble and Little Granite Timber Sales, Implementation, Mountain Analysis Area, Okanogan National Forest, Tonasket, Twisp and Winthrop Ranger Districts, Okanogan County, WA, Due: November 08, 1993, Contact: Craig Bobzien (509) 996-2266.

Published—FR 09-24-93—Officially Canceled by the Preparing Agency.

EIS No. 940236, DRAFT EIS, FAA, NY, NJ, La Guardia and John F. Kennedy International Airports, Implementation of Automated Guideway Transit System by the Port Authority of New York and New Jersey's Airport Access Program, Funding, Airport Layout Plan, COE Section 10 and 404 Permits and US Coast Guard Permit, NY and NJ, Due: December 16, 1994, Contact: Anthony Spera (718) 553-1250.

Published FR 06-24-94—Review period extended.

EIS No. 940346, FINAL EIS, UAF, ME, Loring Air Force Base (AFB) Disposal and Reuse, Implementation, Aroostook County, ME, Due: September 26, 1994, Contact: Tim Knapp (210) 526-3808.

Published FR 08-26-94—Officially Withdrawn by Preparing Agency.

Dated: November 21, 1994.

William D. Dickerson,

Director, Federal Agency Liaison Division,
Office of Federal Activities.

[FR Doc. 94-29094 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5112-2]

Iron and Steel Sector of the Common Sense Initiative; Notice of Open Meeting

The Environmental Protection Agency is convening a meeting of persons interested in the Iron and Steel sector of the Agency's Common Sense Initiative. The purpose of the meeting will be to discuss potential issues or projects that the sector may choose to pursue. The meeting will be held at the Old Colony Inn, 625 First Street, Alexandria, Virginia from 8:30 a.m. to 5:00 p.m. eastern standard time on Wednesday, December 14, 1994. Time will be allotted during the meeting for public statements. For more information, please contact Ms. Mary Byrne at 312-353-2315 or Ms. Judith Hecht at 202-260-5682.

Dated: November 16, 1994.

Dana D. Minerva,

Deputy Assistant Administrator, Office of
Water.

[FR Doc. 94-28976 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5111-8]

North Dakota; Adequacy Determination of the State's Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region VIII).

ACTION: Notice of tentative determination on application of the State of North Dakota for full program adequacy determination, public comment period, and public hearing.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not

mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal Criteria will apply to all permitted and unpermitted MSWLFs.

The State of North Dakota applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed North Dakota's MSWLF application and made a tentative determination that all portions of the State's MSWLF permit program are adequate to assure compliance with the revised MSWLF Criteria. The State has revised the remainder of its permit program to assure complete compliance with the revised Federal Criteria and gain full program approval. North Dakota's application for full program adequacy is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing on the date given in the DATES section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person

listed in the FOR FURTHER INFORMATION CONTACT section.

DATES: All comments on North Dakota's application for a determination of adequacy must be received by the close of business on January 12, 1995. The public hearing is tentatively scheduled for 10 a.m. to 12 p.m., January 12, 1995, at the North Dakota State Department of Health Environmental Training Center, 2639 East Main Avenue, Bismarck, North Dakota 58501. Should a public hearing be held, EPA may limit oral testimony to five minutes per speaker, depending on the number of commenters. Commenters presenting oral testimony must also submit their comments in writing by close of business on January 12, 1995. The hearing may adjourn earlier than 12 noon if all of the speakers deliver their comments before that hour. North Dakota will participate in the public hearing held by EPA on this subject.

ADDRESSES: All written comments should be sent to Gerald Allen (8HWM-WM), Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of North Dakota's application for partial adequacy determination are available from 8 a.m. to 5 p.m. during normal working days at the following addresses for inspection and copying: North Dakota State Department of Health and Consolidated Laboratories, Attn: Martin Schock, Environmental Health Section, 1200 Missouri Avenue, Bismarck, North Dakota 58502-5520, phone 701-328-5170; and U.S. EPA Region VIII, Environmental Information Service Center, 999 18th Street, Suite 144, Denver, Colorado 80202-2466, phone 1-800-227-8917 or 303-293-1603.

FOR FURTHER INFORMATION CONTACT: Gerald Allen (8HWM-WM), Waste Management Branch, USEPA Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466, Phone 303/293-1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the

Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of North Dakota

On June 25, 1993, North Dakota submitted an application for partial program adequacy determination for the State's MSWLF permit program. On October 5, 1993, EPA published a final determination of partial adequacy for North Dakota's program. Further background on the final partial program determination of adequacy appears at 58 FR 51821 (October 5, 1993).

EPA approved the following portions of the State's MSWLF permit program:

1. Location restrictions for airport safety (40 CFR 258.10 (a), (c), and (d)), flood plains (40 CFR 258.11), wetlands (40 CFR 258.12), fault areas (40 CFR 258.13), seismic impact zones (40 CFR 258.14), and unstable areas (40 CFR 258.15).
2. Operating criteria for cover material (40 CFR 258.21), disease vector control (40 CFR 258.22), explosive gases control (40 CFR 258.23(a)), air criteria (40 CFR 258.24), access requirements (40 CFR 258.25), run-on-run-off control systems

(40 CFR 258.26), surface water (40 CFR 258.27), and liquids restrictions (40 CFR 258.28).

3. Design Criteria requirement for composite liners (40 CFR 258.40(b)).

4. Ground-water monitoring for applicability and duration of monitoring (40 CFR 258.50 (a) and (e)); ground-water monitoring systems including casing, number, depth, and spacing of wells (40 CFR 258.51 (c) and (d)); and ground-water sampling and analysis including documentation procedures, frequency, and ground-water elevation measurements (40 CFR 258.53 (a), (c), and (d)).

5. Closure and post-closure care requirements including final cover design (40 CFR 258.60 (a) and (b)), final cover description (40 CFR 258.60(c)(1)), waste inventory and schedule (40 CFR 258.60(c) (3) and (4)), beginning and completion of closure (40 CFR 258.60 (f) through (j)), post-closure care period (40 CFR 258.61 (a) and (b)), and post-closure plan and land use (40 CFR 258.61 (c)(1) and (c)(3)).

6. Financial assurance requirements including applicability (40 CFR 258.70) and allowable mechanisms (40 CFR 258.74).

EPA did not approve the following portions of the State's MSWLF permit program:

1. North Dakota will revise its regulation and add a "FAA notification" requirement to comply with Part 258.10(b) (airport safety).

2. North Dakota will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste (40 CFR 258.20), explosive gases control including monitoring and detection/remediation (40 CFR 258.23 (b) and (c)), and recordkeeping (40 CFR 258.29).

3. North Dakota will revise its regulations to incorporate the Federal design criteria relative to protection of ground-water (40 CFR 258.40 (a), (c), and (d)).

4. North Dakota will revise its regulations to incorporate the Federal ground-water monitoring requirements, including no-migration demonstrations, scheduling, and alternative schedules (40 CFR 258.50(b) through 258.50(d)); number, depth, and location of wells, and the use of multiunit ground-water systems (40 CFR 258.51 (a) and (b)); ground-water sampling analytical methods (40 CFR 258.53(b)); background and statistical procedures (40 CFR 258.53 (e) through (i)); detection monitoring (40 CFR 258.54); assessment monitoring (40 CFR 258.55); assessment of corrective measures (40 CFR 258.56); selection of remedy (40 CFR 258.57); and, implementation of the

corrective action program (40 CFR 258.58).

5. North Dakota will revise its regulations to incorporate the Federal closure and post-closure care requirements, specifically final cover estimate (40 CFR 258.60(c)(2)); State notifications (40 CFR 258.60 (d) and (e)); post-closure contact (40 CFR 258.61(c)(2)); and State notifications (40 CFR 258.61 (d) and (e)).

6. North Dakota will revise its regulations to incorporate financial assurance requirements for closure, post-closure, and corrective action (40 CFR 258.71 through 258.73).

On August 25, 1994, the State of North Dakota submitted an application for full program adequacy determination. EPA reviewed North Dakota's application and tentatively determined that all portion of the State's Subtitle D program will ensure compliance with the revised Federal Criteria.

Although RCRA does not require EPA to hold a public hearing on a determination to approve a State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact within 30 days of the date of publication of this notice, the Region will hold a hearing on January 12, 1995 at the North Dakota Department of Health Environmental Training Center, 2639 East Main Avenue, Bismarck, North Dakota 58501 at 10:00 a.m.

At a meeting planned for late December 1994, the North Dakota State Health Council is expected to approve changes concerning proposed amendments to the North Dakota Administrative Code, Article 33-20, Solid Waste Management and Land Protection rules.

At another meeting planned for mid-April 1995, the North Dakota State Health Council is expected to approve changes concerning proposed amendments to the North Dakota Administrative Code, Article 33-16, Standards for Quality of Ground-water Rules.

If the State takes the necessary actions to bring the ground-water protection (design), ground-water monitoring, and corrective action portions of their rules into full compliance with Federal Criteria, EPA is proposing full program approval for the State of North Dakota. If the State of North Dakota does not take the above actions, EPA will not approve their ground-water protection, ground-water monitoring, and corrective

action requirements, and a partial program approval will be issued.

North Dakota has not asserted jurisdiction over "Indian Country" in its application for adequacy determination. Accordingly, this approval does not extend to lands within "Indian Country" in North Dakota. Until EPA approves a State or Tribal MSWLF permitting program in North Dakota for any part of "Indian Country," as defined in 18 U.S.C. 1151, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of "Indian Country" that is not covered by an approved State or Tribal MSWLF permitting program.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for North Dakota's program. EPA will make a final decision on whether or not to approve North Dakota's program and will give notice of it in the *Federal Register*. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of sections 2002, 4005, and 4010 of

the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, and 6949(a).

Dated: November 14, 1994.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 94-28963 Filed 11-23-94; 8:45 am]

BILLING CODE 8560-50-P

[FRL-5111-6]

42 U.S.C. Section 122(g); Proposed Settlement of Administrative Order By Consent

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Proposed *De Minimis* Settlement.

SUMMARY: U.S. EPA is proposing to settle a claim under Section 122 of CERCLA with *de minimis* potentially responsible parties for costs that have been incurred during removal activities at the Great Lakes Asphalt Facility in Boone County, Indiana. One hundred and eighty-three (183) Respondents have agreed to pay a total of \$601,355.86. The money will be used to reimburse the U.S. EPA for costs incurred during U.S. EPA's removal actions at the Facility. In addition, the Respondents pay to the State of Indiana \$40,761.14 and \$40,000 for natural resource damages. This action is being taken to settle all liability related to the Great Lakes Asphalt Facility with the Respondents pursuant to the intent of Section 122(g) of CERCLA, as amended. **DATES:** Comments on this proposed settlement must be received on or before December 27, 1994.

ADDRESSES: A copy of the proposed settlement is available at the following address for review: (It is recommend that you telephone Peter Felitti at (312) 886-7157, before visiting the Region V Office). U.S. Environmental Protection Agency, Region V, Office of Superfund, Remedial and Enforcement Response Branch, 77 West Jackson Street, Chicago, Illinois 60604-3590.

Comments on the proposed settlement should be addressed to: (Please submit an original and three copies, if possible). Peter Felitti, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 77 West Jackson Street, Chicago, Illinois 60604-3590, (312) 886-7157.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Office of Regional Counsel, at (312) 886-7157.

SUPPLEMENTARY INFORMATION: The Great Lakes Asphalt Facility, was originally an asphalt production facility. In 1979 and 1982, the use of several tanks on the

Facility were leased to the operators of the Enviro-Chem Site for the storage of "synthetic fuel". On May 10, 1989, the Emergency Response Branch of the Indiana Department of Environmental Management was notified of a release at the Facility. The release flowed north to contaminate the soil, a drainage system, a waterway and entered Eagle Creek. U.S. EPA was notified on the day of the release and conducted cleanup activities at the facility. Removal activities were completed by the U.S. EPA's Emergency and Enforcement Response Branch in the summer of 1990.

The Respondents are the alleged generators of the hazardous substances that were transhipped from the Enviro-Chem Site to the Great Lakes Asphalt Facility. Each Respondent's share of the waste delivered to the facility is believed not to exceed 1.0 percent of the total waste delivered at the facility.

A 30-day period, beginning on the date of publication, is open pursuant to Section 122(i) of CERCLA for comments on the proposed settlement. Comments should be sent to the Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 West Jackson Street, Chicago, Illinois 60604-3590.

Valdas V. Adamkus,

Regional Administrator—Region V,
Environmental Protection Agency.

[FR Doc. 94-28964 Filed 11-23-94; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor.

Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011479.

Title: Serpac Service.

Parties:

Compania Sudamericana de Vapores
S.A.

Flota Mercante Grancolombiana
Hamburg Sudamerikanische
Dampschiffahrts—Gesellschaft
Eggert & Amsinck d/b/a Columbus
Line

Synopsis: The proposed Agreement authorizes the parties to discuss and agree upon deployment and utilization of vessels, rationalization of sailings, and the chartering of space from each other. The parties may also, on a voluntary basis and subject to the terms and conditions of any conference, rate, discussion or other such agreement in the trade to which any party may be a member, discuss and agree upon any rates or rate policy or service items, service contracts and tariffs. The parties have requested a shortened review period.

Agreement No.: 224-200259-010.

Title: Jacksonville Port Authority/
Crowley American Transport, Inc.
Terminal Agreement.

Parties: Jacksonville Port Authority
Crowley American Transport, Inc.

Synopsis: The proposed amendment extends the term of the Agreement.

By Order of the Federal Maritime
Commission.

Dated: November 18, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94-28990 Filed 11-23-94; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Gold Star Cruises of Galveston, L.C.,
Lucky Star Cruises, L.C., and Sea
Ways Maritime Company, 2875 NW.
191st Street, Suite 600, Aventura,
Florida 33180

Vessel: STAR OF TEXAS

Dated: November 18, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94-28991 Filed 11-23-94; 8:45 am]

BILLING CODE 6730-01-P

[Fact Finding Investigation No. 21]

Activities of the Trans-Atlantic Agreement and Its Members; Hearing

Pursuant to Commission Order issued July 27, 1994, instituting Fact Finding Investigation No. 21 ("the Fact Finding Order"), notice is hereby given that the Investigative Officers will conduct a hearing concerning various activities and practices by the Trans-Atlantic Agreement ("TAA") and its members which are alleged to be anticompetitive or otherwise violative of the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* The Investigative Officers will take testimony under oath, and receive documents in evidence, as appropriate. In the discretion of the Investigative Officers, portions of this hearing may be conducted in non-public session, as authorized by the Fact Finding Order.

Hearings in Fact Finding Investigation No. 21 will be conducted in Washington, DC., at the following location: Federal Maritime Commission, Hearing Room No. 1, 800 North Capitol St., NW., Washington, DC 20573.

The hearings will commence in public session at 10:00 a.m. on November 29, 1994 and may be conducted on subsequent days at the same location, as appropriate.

Interested persons desiring to testify should contact any of the Investigative Officers designated by the Commission at the address noted below.

Charles L. Haslup,

Investigative Officer.

[FR Doc. 94-29073 Filed 11-23-94; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Associated Banc-Corp; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 9, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp*, Green Bay, Wisconsin; to engage *de novo* through its wholly-owned subsidiary Associated Trust Company of Illinois, Inc., Chicago, Illinois, in trust company functions in the state of Illinois, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29038 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

Centura Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 19, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Centura Banks, Inc.*, Rocky Mount, North Carolina; to acquire 100 percent of the voting shares of Cleveland Interim Bank, Shelby, North Carolina (successor by conversion to Cleveland Federal Bank, a savings bank).

2. *Triangle Bancorp, Inc.*, Raleigh, North Carolina; to merge with Atlantic Community Bancorp, Inc., Rocky Mount, North Carolina, and thereby indirectly acquire Unity Bank & Trust Company, Rocky Mount, North Carolina.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29039 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

David J. Dalrymple, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *David J. Dalrymple*; *Robert H. Dalrymple*; and *Mary E. Dalrymple*, all of Elmira, New York; to acquire 17.13 percent of the voting shares of Chemung Financial Corporation, Elmira, New York, and thereby indirectly acquire Chemung Canal Trust Company, Elmira, New York.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dr. Patrick L. and Mary L. Schelle*, both of Lewistown, Montana; to acquire an additional 5.00 percent, for a total of 10.57 percent, of the voting shares of Buffalo Bancshares, Inc., Buffalo, Oklahoma, and thereby indirectly acquire Oklahoma State Bank, Buffalo, Oklahoma.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *James W. Robertson*, as trustee, Houston, Texas; to acquire 19.28 percent of the voting shares of Texas Gulf Bancshares, Inc., Freeport, Texas, and thereby indirectly acquire Texas Gulf Bank N.A., Freeport, Texas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *Ronald H. Gabriel*, as trustee, Los Angeles, California; to acquire 72.97 percent of the voting shares of Garfield Bank, Montebello, California.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29040 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

The Bank of Montreal; Application To Engage in Nonbanking Activities

The Bank of Montreal, Toronto, Canada, 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 retain its interest in Burns Fry and Timmins Holdings Inc., Chicago, Illinois (Burns Fry), and, subsequent to the merger of the operating subsidiaries of Burns Fry into Applicant's section 20 subsidiary, Harris Nesbitt Thomson Securities Inc., New York, New York (Harris Nesbitt), to continue to engage indirectly through Harris Nesbitt in the following

activities: (1) providing investment and financial advice, including financial advice to Canadian federal, provincial, and municipal governments; (2) providing securities brokerage service on a discount and full-service basis; (3) underwriting and dealing in all types of bank-eligible securities; (4) acting as agent for issuers in the private placement of all types of securities; (5) appraising real estate and tangible and intangible personal property, including securities; and (6) arranging commercial real estate equity financing. Applicant proposes to conduct these activities on a nationwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, without 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 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).

Applicant 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)(4) (providing investment and financial advice, including financial advice to Canadian federal, provincial, and municipal governments); 12 CFR 225.25(b)(15) (providing securities brokerage service on a discount and full-

service basis); 12 CFR 225.25(b)(16) (underwriting and dealing in bank-eligible securities); 12 CFR 225.25(b)(13) (appraising real estate and tangible and intangible personal property, including securities); and 225.25(b)(14) (arranging commercial real estate equity financing).

Applicant also states that the Board has determined by order that the remaining proposed activity, when conducted within limitations established by the Board in previous orders, is closely related to banking. See *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990), and *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) (acting as agent for issuers in the private placement of securities). In addition, Applicant maintains that Harris Nesbitt may provide execution-only services solely to a single affiliate, Nesbitt Burns Inc., Toronto, Canada, for the purchase and sale of certain exchange-traded futures contracts and options on futures contracts, pursuant to section 4(c)(1)(C) of the BHC Act (12 U.S.C. 1843(c)(1)(C)).

Applicant maintains that it would conduct these previously approved activities in conformance with the conditions and limitations established by the Board in prior cases. For this reason, Applicant 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). Applicant states that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal will enhance competition and enable it to offer its customers a broader range of services. In addition, Applicant states that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is

published solely 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, DC 20551, not later than December 12, 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 Chicago.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29041 Filed 11-23-94; 8:45 am]
BILLING CODE 6210-01-F

NationsBank Corporation; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 9, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NationsBank Corporation*, Charlotte, North Carolina; to engage *de novo* through its subsidiary Greyrock Capital Group Inc., Stamford, Connecticut (formerly Nations Financial Capital Corporation, Stamford, Connecticut (Company)) in making equity and debt investments in corporations or projects designed primarily to promote community welfare pursuant to § 225.25(b)(6) of the Board's Regulation Y. Company will engage in the activities primarily through equity investments in entities which will own low-income housing projects as defined in Section 42(g)(1) of the Internal Revenue Code of 1986, or as designated by a Federal, State, or municipal agency or instrumentality, and in connection with which the owner is restricted as to rentals or occupancy charges for some or all of the units in the project. Company proposes to invest in some projects where only 20 percent of the units will be subject to rental or occupancy charge restrictions, which is the lowest threshold under Section 42(g)(1) of the Internal Revenue Code.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29042 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

**Signet Banking Corporation,
Richmond, VA; Application To Engage
in Nonbanking Activities**

Signet Banking Corporation, Richmond, Virginia (Applicant), 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)), through Signet Strategic Capital Corporation, Richmond, Virginia (Company), to engage *de novo* in providing investment advisory services with respect to futures and options on futures on nonfinancial commodities. Applicant would engage in these activities on a worldwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. 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 operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed services, 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).

Applicant maintains that the Board previously has determined by order that providing investment advisory services with respect to futures and options on futures on nonfinancial commodities is closely related to banking. See *Swiss Bank Corporation*, 77 Federal Reserve Bulletin 126 (1991); *J.P. Morgan & Co., Incorporated*, 80 Federal Reserve Bulletin 151 (1994). Applicant states that Company only would provide advisory services with respect to previously approved contracts. Applicant also states that Company would provide investment advisory services in accordance with the

limitations of §§ 225.25(b)(19)(i) & (ii) of Regulation Y.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8). Applicant believes that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal will enhance competition and enable Applicant to offer its customers a broader range of products. In addition, Applicant 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 and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 9, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29043 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

UMB Financial Corporation; 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 December 9, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *UMB Financial Corporation*, Kansas City, Missouri; to acquire Scout Brokerage Services, Inc., Kansas City, Missouri, and thereby engage acting as

an underwriter, dealer or broker of U.S. Government and agency securities, general obligation municipal bonds, bankers acceptances and certificates of deposit, pursuant to § 225.25(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-29044 Filed 11-23-94; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a public hearing of the Federal Accounting Standards Advisory Board will be held on Tuesday, November 29, 1994 from 1:00 to 4:30 P.M. and Wednesday, November 30, 1994 from 9:00 A.M. to 4:30 P.M. in room 7C13 of the General Accounting Office, 441 G St., NW., Washington, DC

The purpose of the hearing is to hear testimony from interested parties on the recently issued *Entity and Display and Managerial Cost Accounting Standards* exposure drafts (ED's).

Any interested person may attend the hearing as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Executive Staff Director, 750 First St., NE., Room 1001, Washington, DC 20002, or call (202) 512-7350.

Authority: Federal Advisory Committee Act, Pub. L. 92-463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101-6.1015 (1990).

Dated: November 21, 1994.

Ronald S. Young,

Executive Director.

[FR Doc. 94-29099 Filed 11-23-94; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those information collections recently submitted to OMB.

1. HHS Procurement—Solicitations and Contracts—Extension—0990-0115

This clearance request covers general information collection requirements of the procurement process such as technical proposals and statements of work.

Respondents: State or local governments, businesses or other for-profit, non-profit institutions, small businesses.

Annual Number of Respondents: 8415.

Frequency of Response: One time.

Average Burden per Response: 249.68 hours.

Estimated Annual Burden: 2,101,005 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-1053. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: November 10, 1994.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 94-28854 Filed 11-23-94; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control and Prevention

Revision of Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice announces revised fees for vessel sanitation inspections effective January 1, 1995.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Anderson, Chief, Special Programs Group, National Center for Environmental Health, CDC, 4770 Buford Highway, NE., Mailstop F-29, Atlanta, Georgia 30341-3724. Telephone: (404) 488-7070.

SUPPLEMENTARY INFORMATION:

Purpose and Background:

The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program (VSP) was first published in the *Federal Register* on November 24, 1987 (52 FR 45019), and CDC began collecting fees on March 1, 1988. Since then, CDC has revised the fee schedule annually. This notice announces fees effective January 1, 1995.

The formula used to determine the fees is as follows:

$$\text{Average cost per inspection} = \frac{\text{Total Cost of VSP}}{\text{Weighted No. of Annual Inspections}}$$

$$\text{Average cost per inspection} = \frac{\text{Total Cost of VSP}}{\text{Weighted No. of Annual Inspections}}$$

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the proposed fee schedule published in the *Federal Register* on July 17, 1987 (52 FR 27060), and revised in a schedule published in the *Federal Register* on November 28, 1989 (54 FR 48942). The revised cost/factor is presented below in Appendix A.

Fees

The fee schedule is presented in Appendix A and will be effective January 1, 1995, through December 31,

1995. However, should there be a substantial increase in the cost of air transportation, it may be necessary to re-adjust the fees prior to December 31, 1995, since travel constitutes a sizable portion of the costs of this program. If such a re-adjustment in the fee schedule is necessary, a notice will be published in the *Federal Register* 30 days prior to the effective date.

Applicability

The fees will be applicable to all passenger cruise vessels for which sanitation inspections are conducted as part of the Vessel Sanitation Program, CDC.

Dated: November 17, 1994.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

SIZE/COST FACTOR

[Appendix A]

Vessel size	GRT ¹	Average cost X
Extra Small	(<3,001)	0.25
Small	(3,001-15,000)	0.5
Medium	(15,001-30,000)	1.0
Large	(30,001-60,000)	1.5
Extra Large	(>60,000)	2.0

¹ GRT-Gross Register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

FEE SCHEDULE JANUARY 1, 1995-DECEMBER 31, 1995

Vessel Size	GRT ¹	Fee
Extra Small	(<3,001)	\$1,024
Small	(3,001-15,000)	2,048
Medium	(15,001-30,000)	4,095
Large	(30,001-60,000)	6,143
Extra Large	(>60,000)	8,191

¹ GRT-Gross Register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Inspections and reinspections involve the same procedure, require the same amount of time and will, therefore, be charged at the same rate.

[FR Doc. 94-29050 Filed 11-23-94; 8:45 am]

BILLING CODE 4163-18-P

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Correction of Meeting Notice

Public notice was given in the *Federal Register* on November 2, 1994, Vol. 59, No. 211, page 54920, that the Center for Mental Health Services (CMHS)

National Advisory Council meeting on December 8-9, 1994, would be open to the public. However, this meeting will now include the review and detailed discussion of contract proposals; therefore, a portion of the meeting, from 9:00 a.m. until 10:00 a.m. on December 8, will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552(b)(3), (4), and (6), and section 10(d) of Public Law 92-463 (5 U.S.C. Appendix 2).

Dated: November 18, 1994.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 94-28953 Filed 11-23-94; 8:45 am]

BILLING CODE 4162-20-P

Food and Drug Administration

[Docket No. 94N-0196]

Hazard Analysis Critical Control Point Systems; Invitation to Participate in a Voluntary HACCP Pilot Program for the Food Manufacturing Industry; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the *Federal Register* of August 4, 1994 (59 FR 39771). The document announced FDA's intention to conduct a pilot program in which volunteers from the food manufacturing industry will use the Hazard Analysis Critical Control Points (HACCP) system. The document inadvertently listed the incorrect address for submitting letters of interest. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: John E. Kvenberg, Center for Food Safety and Applied Nutrition (HFS-10), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-4010.

In FR Doc. 94-18969, appearing on page 39771, in the *Federal Register* of August 4, 1994, the following corrections are made:

1. On page 39771, in the third column, under the caption "ADDRESSES", the words "Office of Policy, Planning, and Strategic Initiatives (HFS-4)" are corrected to read "Strategic Manager for HACCP Policy (HFS-10)".

2. On page 39772, in the third column, in the last paragraph, the words "Office of Policy, Planning, and Strategic Initiatives (HFS-4)" are corrected to read "Strategic Manager for HACCP Policy (HFS-10)".

Dated: November 17, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94-28950 Filed 11-23-94; 8:45 am]

BILLING CODE 4160-01-F

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following requests have been submitted to OMB since the list was last published on Thursday, November 10, 1994.

(Call PHS Reports Clearance Officer on 202-690-7100 for copies of request.)

1. Survey of 1994 Hospital Development Activities of Organ Procurement Organizations—New—Organ procurement organizations (OPOs) vary widely in their rates of organ donors per million population and other measures of performance. Targeted hospital development activities may improve OPO performance. This survey of all OPOs will enable the Division of Organ Transplantation to assess the influence

of specific hospital development activities on OPO performance. Respondents: Non-profit institutions, Small businesses or organizations, Number of Respondents: 66; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual Burden: 66 hours.

2. Evaluation of the Comprehensive Mental Health Services Program for Children—New—The Comprehensive Community Mental Health Services Program for Children with Serious Emotional Disturbances supports the development of more accessible and appropriate services for children and adolescents with serious emotional, behavioral or mental disorders in 19 sites. The evaluation will be conducted for a five-year period in all sites and will collect process and outcome data, using MIS data, standardized assessment instruments and qualitative data. Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations. Number of Respondents: 17,720; Number of Responses per Respondent: 4.66; Average Burden per Response: 0.156 hour; Estimated Annual Burden: 12,864 hours.

3. Abbreviated New Drug Application Regulations; Patent and Exclusivity Provisions, Final Rule—New—These regulations provide instructions on how to file patent information, request market exclusivity, and describe the Food and Drug Administration's guidelines regarding patents and exclusivity. Respondents: Businesses or other for-profit, Small businesses or organizations.

Title	No. of respondents	No. of responses per respondent	Average burden per response (hours)
Reporting:			
314.50(i)	8	1	2
314.50(j)	50	1	2
314.52	30	1	8
314.53	200	1	1
314.54	10	1	1
314.70	43	1	1
314.94(a)(12)	215	1	2
314.95	30	1	16
314.107	10	1	1

Estimated total annual burden: 1,529 hours.

4. Evaluation of the Community-Based Mosquito Control Programs for Dengue Hemorrhagic Fever (DHF) Prevention and Control at the San Juan Laboratories, Puerto Rico—New—The information generated from this evaluation project will be used to

improve the DHF prevention program in Puerto Rico, and programs modeled after the Centers for Disease Control (CDC) program in other countries in the Americas. The lessons learned from this evaluation would be of great use for similar situations, regarding dengue in

other countries, or situations involving the emergence of other new diseases, or diseases that are changing in epidemiologic pattern. Respondents: Individuals or households; Respondents: 1,500; Number of Responses per Respondent: 1; Average

Burden per Response: .68 hour;

Estimated Annual Burden: 1,022 hours.

5. OMAR Quick Launch Physician Practice Survey—0925-0367 (Extension, no change)—The Office of Medical Applications of Research (OMAR) will conduct surveys of physicians to evaluate changes in their practice behavior related to biomedical technologies that are assessed in Consensus Development Conferences (CDC). For each CDC, identical surveys will be conducted at three times: one year before, just before, and one-year following a CDC. Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations. Total Annual Burden: 1 hour.*

*Note: This is a concept approval, only. Under terms of the current approval, questionnaires for each CDC survey must be submitted to OMB for approval. OMB has agreed to give those submissions an expedited 30-day review.

6. Evaluation of Tuberculosis Outreach Worker Activities—New—This survey is a necessary step prior to developing a plan to evaluate the outreach activities of State and local tuberculosis control programs. The purpose of this project is to describe the outreach activities and outreach workers. This will be accomplished by conducting a mail survey of State and local tuberculosis control programs. Respondents: State or local governments; Number of Respondents: 64; Number of Responses per Respondent: 1; Average Burden per Response: 2.65 hours; Estimated Annual Burden: 170 hours.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address: Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, room 10235, Washington, DC 20503.

Dated: November 11, 1994.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 94-29184 Filed 11-23-94; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that

have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the Federal Register on Friday, October 21, 1994. (Call Reports Clearance Officer on (410) 965-4142 for copies of package.)

1. Notice of Proposed Rulemaking Concerning Wage Reports and Pension Information—0960-NEW. The information provided in connection with OR-418P is used by the Social Security Administration to identify the requester of pension plan information and ascertain that the individual is entitled to the data we provide. The respondents are requesters of pension plan information.

Number of Respondents: 2,280.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,140.

2. Final regulation at 20 CFR 401.600 regarding the Social Security Administration's (SSA's) Blood Donor Locator Service (BDLS)—0960-0501. The information obtained by OR-209F is used by SSA to notify the States or authorized blood donation facilities that a donor may be infected with the Human Immunodeficiency Virus. Respondents are States or other authorized blood donation facilities which have entered into an agreement with SSA to participate in the BDLS by providing this information.

Number of Respondents: 10.

Frequency of Response: 5.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 13 hours.

3. Application for Retirement Insurance Benefits—0960-0007. The information on form SSA-1 is used by the Social Security Administration to determine an individual's entitlement to retirement insurance benefits. The respondents are claimants for those benefits.

Number of Respondents: 1,560,000.

Frequency of Response: 1.

Average Burden Per Response: 10.5.

Estimated Annual Burden: 273,000 hours.

4. Child Relationship Statement—0960-0116. The information on Form SSA-2519 is used by the Social Security Administration to entitle children to benefits under the deemed relationship provision. The respondents are individuals who have knowledge of a child's relationship to the insured worker.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 12,500 hours.

5. Request To Have Supplemental Security Income Overpayment Withheld From My Social Security Benefits—0960-NEW. The information on form SSA-730-U2 will be used by the Social Security Administration to verify that a request has been made of a beneficiary to recover an SSI overpayment from his or her Title II benefits and that the request was freely, voluntarily and knowingly made.

Number of Respondents: 10,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 833.3 hours.

6. Physician's/Medical Officer's Statement of Patient's Capability to Manage Benefits—0960-0024. The information on form SSA-787 is used by the Social Security Administration to determine the individual's capability or lack thereof in handling his or her own benefits. The information also provides leads, if necessary, for SSA to follow up on in selecting a representative.

Number of Respondents: 120,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 20,000.

7. Public Service Announcements—0960-NEW. These forms accompany public service announcements of up to 60 seconds which are sent out to radio and television (TV) stations to better inform the public about the programs of the Social Security Administration (SSA). The information on the various forms is used by SSA to determine which spots are played, how often, their effectiveness, and the need for more local announcements. The forms are completed and returned to a contractor who works for SSA by the receiving radio or TV station.

Number of Respondents: 1,044.

Frequency of Response: 4.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 139 hours.

8. Work Reintegration Study—0960-NEW. The information on the two forms used in this study will aide the Social Security Administration in determining what steps it can take to help beneficiaries who are disabled due to a back condition to return to work.

Number of Respondents: 2,000.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 2,000 hours.

OMB Desk Officer: Laura Oliven.
Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, DC 20503.

Dated: November 18, 1994.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 94-29055 Filed 11-23-94; 8:45 am]

BILLING CODE 4190-29-P

Agreement on Social Security Between the United States and Greece; Entry Into Force

The Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and Greek social security systems is effective beginning September 1, 1994. The agreement with Greece, which was signed on June 22, 1993, is similar to U.S. social security agreements already in force with sixteen other countries—Austria, Belgium, Canada, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Greek agreement eliminates dual social security coverage—the situation that occurs when a person from one country works in the other country and is required, along with his employer, to pay social security taxes to both countries on the same earnings. Under the U.S.-Greek agreement, a worker who is sent by an employer in the United States to work in Greece for 5 years or less remains covered only by the U.S. system. The agreement includes additional rules that eliminate dual U.S. and Greek coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial U.S. or Greek benefits based on combined (totalized) work credits from both countries.

Individuals who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International

Policy, Post Office Box 17741, Baltimore, Maryland 21235.

Dated: November 8, 1994.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 94-29054 Filed 11-23-94; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-94-3683; FR-3560-N-06]

Announcement of Funding Awards for Fair Housing Initiatives Program—Fiscal Year 1993

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of Funding Awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of FY 1993 funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, DC 20410-2000. Telephone number (202) 708-0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708-3216. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and

eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR Part 125.

The FHIP has four funding categories: the Administrative Enforcement Initiative, the Education and Outreach Initiative, the Private Enforcement Initiative, and the Fair Housing Organizations Initiative.

In a NOFA published in the *Federal Register* on December 22, 1993 (58 FR 68000), the Department announced the availability of \$8.8 million in funds for FHIP. On February 25, 1994 (59 FR 9235), HUD published a notice that made an additional \$800,000 available, for a total of \$9.6 million in FY 1993 funding. To ensure that sufficient time was available for full consideration to be given to applications under the FY 1993 FHIP Affirmative Fair Housing Marketing Reinvention Lab Project NOFA (June 16, 1994, 59 FR 31072), the Department replaced the \$1 million of FY 1993 Education and Outreach Initiative funds made available under that NOFA with \$1 million in FY 1994 Education and Outreach Initiative funds in a notice published on August 9, 1994 (59 FR 40599). The \$1 million in FY 1993 Education and Outreach Initiative funds from the Affirmative Fair Housing Marketing Reinvention Lab Project NOFA were instead made available to fund additional eligible Education and Outreach Initiative applicants under the FY 1993 FHIP NOFA, and to complete the funding of grantees under that NOFA who were only partially funded.

A notice published on July 14, 1994 (59 FR 35942) listed the bulk of the awards made under FY 1993 FHIP NOFA. This notice announces the additional FY 1993 FHIP NOFA Education and Outreach Initiative applicants funded as a result of the August 9, 1994 notice. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing details concerning the recipients of funding awards, as follows below.

FISCAL YEAR 1993 FAIR HOUSING INITIATIVES PROGRAM SUPPLEMENTAL AWARDS

	Applicant name and address	Contact name and phone number	Region Single or multi-year funding	Amount requested (amount for only first year reflected for multiyear projects)
Education and outreach initiative—national program component: National Puerto Rican Coalition, 1700 K Street, NW—Suite 500, Washington, DC 20006.	Roberto Nazario, 202-223-3915 ..	3	S	\$200,000
Education and outreach initiative—regional/local/community-based component: New York State Division of Human Rights, 55 W 125 St., 13th Floor, New York, New York 10027.	Margarita Rosa, 212-961-8790	2	S	79,535
Michigan Department of Civil Rights, 1200 Sixth Avenue, Detroit, Michigan 48226.	Nanette Lee Reynolds, 313-256-2578.	5	S	117,435

Dated: November 11, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94-28996 Filed 11-23-94; 8:45 am]

BILLING CODE 4210-28-P

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-94-1917; FR-3778-N-12]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact William Molster, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1226; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings

and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD:

- (1) Its intention to make the property available for use to assist the homeless;
- (2) Its intention to declare the property excess to the agency's needs; or
- (3) A statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to July Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule

governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available, or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to William Molster at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the *Federal Register*, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW, Mailstop 5512-MIB, Washington, DC 20240; (202) 208-4080; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW, room 10319, Washington, DC 20590; (202) 366-4246;

Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CEREMC, Room 4224, 20 Massachusetts Ave. NW, Washington, DC 20314-1000; (202) 272-1753; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300; (703) 325-0474; U.S. Air Force: Bob Menke, Area-MI, Bolling AFB, 172 Luke Avenue, Suite 104, Washington, DC 20332-5113; (202) 767-6235; U.S. Army: Elaine Sims, CECPW-FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310-3862; (703) 355-3475; (These are not toll-free numbers).

Dated: November 18, 1994.

Jacque M. Lawing,

Deputy Assistant Secretary for Economic Development.

**Title V, Federal Surplus Property Program
Federal Register Report for 11/25/94**

Suitable/Available Properties

Buildings (by State)

Arizona

Bldg. 80005

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430245

Status: Unutilized

Comment: 1718 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only

Bldg. 80006

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430246

Status: Unutilized

Comment: 1628 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only

Bldg. 83023

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430247

Status: Unutilized

Comment: 1648 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only

Bldg. 81027

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430248

Status: Unutilized

Comment: 2193 sq. ft., 2-story, wood frame, most recent use—admin., needs repair, off-site use only

Bldg. 81028

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430249

Status: Unutilized

Comment: 2193 sq. ft., 2-story, wood frame, most recent use—admin., needs repair, off-site use only

Bldg. 80111

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219430250

Status: Unutilized

Comment: 2032 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only

Colorado

Bldg. P-1388

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430134

Status: Unutilized

Comment: 240 sq. ft., 1-story steel structure, needs rehab, secure area with alternate access, off-site use only

Bldg. T-1827

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430135

Status: Unutilized

Comment: 2488 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—exchange service outlet, off-site use only

Bldg. T-3565

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430136

Status: Unutilized

Comment: 2402 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—classroom, off-site use only

Bldg. T-3566

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430137

Status: Unutilized

Comment: 5310 sq. ft., 2-story wood structure, needs rehab, most recent use—classroom, off-site use only

Bldg. T-3569

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430138

Status: Unutilized

Comment: 2488 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—admin., off-site use only

Bldg. T-3572

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219430139

Status: Unutilized

Comment: 2488 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—bev. store annex, off-site use only

Bldg. T-6048

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army
Property Number: 219430140
Status: Unutilized

Comment: 7528 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—admin., off-site use only

Bldg. T-6052

Fort Carson

Colorado Springs Co: El Paso Co 80913-

Landholding Agency: Army

Property Number: 219430141

Status: Unutilized

Comment: 4458 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—maint. shop., off-site use only.

Bldg. T-6089

Fort Carson

Colorado Springs Co: El Paso Co 80913-

Landholding Agency: Army

Property Number: 219430142

Status: Unutilized

Comment: 3150 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—exchange service outlet, off-site use only

Bldg. T-6120

Fort Carson

Colorado Springs Co: El Paso Co 80913-

Landholding Agency: Army

Property Number: 219430143

Status: Unutilized

Comment: 4609 sq. ft., 1-story concrete block structure, needs rehab, presence of asbestos, most recent use—printing plant, off-site use only

Bldg. T-6127

Fort Carson

Colorado Springs Co: El Paso Co 80913-

Landholding Agency: Army

Property Number: 219430144

Status: Unutilized

Comment: 5280 sq. ft., 1-story wood structure, needs rehab, presence of asbestos, most recent use—storage, off-site use only

Bldg. S-6251

Fort Carson

Colorado Springs Co: El Paso Co 80913-

Landholding Agency: Army

Property Number: 219430145

Status: Unutilized

Comment: 23811 sq. ft., 2-story concrete block structure, needs rehab, presence of asbestos, most recent use—admin., off-site use only

Hawaii

Bldg. T-119

Fort Shafter

Honolulu HI 96819-

Landholding Agency: Army

Property Number: 219430252

Status: Unutilized

Comment: 10205 sq. ft., wood structure, some termite damage, most recent use—above ground swimming pool, off-site use only

Kansas

Bldg. 184, Fort Riley

Ft. Riley KS 66442-

Landholding Agency: Army

Property Number: 219430146

Status: Unutilized

- Comment: 1959 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—boiler plant, historic district
- Kentucky
- Bldg. 109
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430150
Status: Unutilized
Comment: 24164 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—transient family quarters
- Bldg. 234
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430152
Status: Unutilized
Comment: 8042 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only
- Bldg. 236
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430153
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only
- Bldg. 238
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430154
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—Educ. center, off-site use only
- Bldg. 240
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430155
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only
- Bldgs. 242, 244
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430156
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only
- Bldg. 2104
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430158
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only
- Bldg. 2107
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430160
Status: Unutilized
- Comment: 7528 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only
- Bldg. 2108
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430161
Status: Unutilized
Comment: 3823 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only
- Bldg. 2739
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430163
Status: Unutilized
Comment: 2750 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—office, off-site use only
- Bldg. 2737
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430164
Status: Unutilized
Comment: 2500 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—office, off-site use only
- Bldg. 2951
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430165
Status: Unutilized
Comment: 2500 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—office, off-site use only
- Bldg. 2230
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430166
Status: Unutilized
Comment: 5310 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
- Bldg. 2788
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430167
Status: Unutilized
Comment: 1813 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
- Bldg. 3184
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430168
Status: Unutilized
Comment: 2625 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
- Bldg. 6412
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430169
Status: Unutilized
Comment: 10944 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
- Bldg. 6126
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430170
Status: Unutilized
Comment: 3376 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
- Bldg. 2756
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430171
Status: Unutilized
Comment: 5310 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—housing, off-site use only
- Bldg. 3170
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430172
Status: Unutilized
Comment: 2750 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only
- Bldg. 5343
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430173
Status: Unutilized
Comment: 3376 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only
- Bldg. 6408
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430174
Status: Unutilized
Comment: 1350 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—admin., off-site use only
- Bldg. 5345
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430175
Status: Unutilized
Comment: 2957 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only
- Bldg. 6127
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430176
Status: Unutilized
Comment: 4020 sq. ft. 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only
- Bldg. 6351
Fort Campbell
Ft. Campbell Co: Christian KY 42223—
Landholding Agency: Army
Property Number: 219430177
Status: Unutilized
Comment: 3108 sq., 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only
- Maryland
- Bldgs. 2251, 2252

Fort Meade

Ft. Meade Co: Anne Arundel MD 20755-5115

Landholding Agency: Army

Property Number: 219430180

Status: Unutilized

Comment: 648 & 3594 sq. ft., 1-story, concrete/metal structure, needs rehab, presence of asbestos, most recent use—heating plant & admin.

Missouri

House No. 2, Clearwater Lake

Rt. HH at the dam

Piedmont Co: Wayne MO 63957-

Landholding Agency: COE

Property Number: 319430009

Status: Excess

Comment: 1600 sq. ft., 1-story brick veneer residence, off-site use only

New York

23 Residential Apartment Bldgs

Stewart Gardens, Stewart Army Subpost

Army Wherry Family Housing

New Windsor Co: Orange NY 12553-

Location: Y and Garden Loop Streets

Landholding Agency: Army

Property Number: 219330315

Status: Unutilized

Comment: 2-story family housing, concrete block/wood, needs rehab, scheduled to be vacated 1996

5 Detached Garages

Stewart Gardens, Stewart Army Subpost

Army Wherry Family Housing

New Windsor Co: Orange NY 12553-

Location: Y and Garden Loop Streets

Landholding Agency: Army

Property Number: 219330316

Status: Unutilized

Comment: 1-story garages, concrete block/wood, needs rehab, scheduled to be vacated 1996

30 Storage Sheds

Stewart Gardens, Stewart Army Subpost

Army Wherry Family Housing

New Windsor Co: Orange NY 12553-

Location: Y and Garden Loop Streets

Landholding Agency: Army

Property Number: 219330317

Status: Unutilized

Comment: 1-story aluminum/wood storage sheds, good condition, scheduled to be vacated 1996

Bldg. 100, Fort Hamilton

Bellmore Co: Nassau NY 11710-

Landholding Agency: Army

Property Number: 219340254

Status: Unutilized

Comment: 155 sq. ft., 1-story, most recent use—storage

Bldg. 200, Fort Hamilton

Bellmore Co: Nassau NY 11710-

Landholding Agency: Army

Property Number: 219340255

Status: Unutilized

Comment: 12000 sq. ft., 1-story, most recent use—office

Bldg. 300, Fort Hamilton

Bellmore Co: Nassau NY 11710-

Landholding Agency: Army

Property Number: 219340256

Status: Underutilized

Comment: 11000 sq. ft., 1-story, most recent use—reserve center

Bldg. S-2341, S-2342

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 219430183

Status: Unutilized

Comment: 266-484 sq. ft., a1-story, needs rehab, most recent use—storage, off-site use only

Bldg. S-2800

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 219430184

Status: Unutilized

Comment: 671 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. S-2801

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230185

Status: Unutilized

Comment: 3182 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. T-196, T-197

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230186

Status: Unutilized

Comment: 3576-3809 sq. ft., 1-story, needs rehab, most recent use—maint. shop, off-site use only

Bldg. T-901

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230187

Status: Unutilized

Comment: 2305 sq. ft., 1-story, needs rehab, most recent use—admin./gen. purpose, off-site use only

Bldg. T-902

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230188

Status: Unutilized

Comment: 3350 sq. ft., 1-story, needs rehab, most recent use—training, off-site use only

Bldg. T-916

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230190

Status: Unutilized

Comment: 840 sq. ft., 1-story, needs rehab, most recent use—training facility, off-site use only

Bldg. T-2320

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230191

Status: Unutilized

Comment: 5310 sq. ft., 2-story, needs rehab, most recent use—barracks/annual training, off-site use only

Bldg. T-2321

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230192

Status: Unutilized

Comment: 5310 sq. ft., 2-story, needs rehab, most recent use—barracks/annual training, off-site use only

Bldg. T-2406

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230194

Status: Unutilized

Comment: 4712 sq. ft., 1-story, needs rehab, most recent use—medical admin./training, off-site use only

Bldg. T-2410

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230195

Status: Unutilized

Comment: 5034 sq. ft., 2-story, needs repair, 30% in runway clear zone, most recent use—housing/training, off-site use only

Bldg. T-2427

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230196

Status: Unutilized

Comment: 4345 sq. ft., 1-story, needs rehab, most recent use—storage/training, off-site use only

Bldg. T-2425

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230197

Status: Unutilized

Comment: 4340 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldgs. T-4854, T-4859

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230198

Status: Unutilized

Comment: 2592 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. T-224

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230199

Status: Unutilized

Comment: 2750 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. T-234

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230200

Status: Unutilized

Comment: 1296 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. T-239

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army

Property Number: 2194230201

Status: Unutilized

Comment: 2588 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. T-2338

Fort Drum

Ft. Drum Co: Jefferson NY 13602-

Landholding Agency: Army
Property Number: 219430202
Status: Unutilized
Comment: 159 sq. ft., 1-story needs rehab,
most recent use—storage, off-site use only
Bldg. T-2405
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430203
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
Bldg. T-231
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430204
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
Bldg. T-232
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430205
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
Bldg. T-237
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430206
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
Bldg. T-238
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430207
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
Bldg. T-220
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430208
Status: Unutilized
Comment: 2360 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-225
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430209
Status: Unutilized
Comment: 2360 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-229
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430210
Status: Unutilized
Comment: 2360 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-240
Fort Drum

Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430211
Status: Unutilized
Comment: 2360 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-249
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430212
Status: Unutilized
Comment: 2360 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-2323
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430213
Status: Unutilized
Comment: 2500 sq. ft., 1-story, needs rehab,
most recent use—storage, mess hall/
training, off-site use only
Bldg. T-4834
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430214
Status: Unutilized
Comment: 2250 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only
13 Bldgs.
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Location: Bldgs. T221-T223, T226-T228,
T241-T244, T246-T248
Landholding Agency: Army
Property Number: 219430215
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab,
most recent use—barracks/training, off-site
use only
Bldg. T-1011
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430216
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-1012
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430217
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2270
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430218
Status: Unutilized
Comment: 7670 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2271
Fort Drum
Ft. Drum Co: Jefferson NY 13602—

Landholding Agency: Army
Property Number: 219430219
Status: Unutilized
Comment: 8044 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2276
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430220
Status: Unutilized
Comment: 5310 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2277
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430221
Status: Unutilized
Comment: 8044 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2402
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430222
Status: Unutilized
Comment: 5034 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. T-2404
Fort Drum
Ft. Drum Co: Jefferson NY 13602—
Landholding Agency: Army
Property Number: 219430223
Status: Unutilized
Comment: 5034 sq. ft., 2-story, needs rehab,
most recent use—officers quarters/training,
off-site use only
Bldg. 900, Fort Hamilton
Bellmore Co: Nassau NY 11710—
Landholding Agency: Army
Property Number: 219430259
Status: Underutilized
Comment: 400 sq. ft., 1-story, needs rehab,
most recent use—material storage
Pennsylvania
One Unit/Residence
Conemaugh River Lake, RD #1, Box 702
Saltburg Co: Indiana PA 15681—
Landholding Agency: COE
Property Number: 319430011
Status: Unutilized
Comment: 2642 sq. ft., 1-story, 1-unit of
duplex, fair condition, access restrictions
Tract 302A
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430016
Status: Unutilized
Comment: 960 sq. ft., 2-story log structure,
most recent use—residential, needs rehab,
if used for habitation must be flood proofed
or removed off-site.
Tract 302B
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430017
Status: Unutilized

Comment: 502 sq. ft., 2-story, needs repair, most recent use—beauty shop/residence, if used for habitation must be flood proofed or removed off-site.

Tract 314

Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430018
Status: Unutilized

Comment: 1864 sq. ft., 2-story, brick structure needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 353

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430019
Status: Unutilized

Comment: 812 sq. ft., 2-story, log structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 402

Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430020
Status: Unutilized

Comment: 728 sq. ft., 2-story, needs repairs, most recent use—residential/parsonage, if used for habitation must be flood proofed or removed off-site

Tract 403A

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430021
Status: Unutilized

Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403B

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430022
Status: Unutilized

Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403C

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430023
Status: Unutilized

Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed off-site.

Tract 434

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430024
Status: Unutilized

Comment: 1059 sq. ft., 2-story, wood frame, 2 apt. units, historic property, if used for habitation must be flood proofed or removed off-site.

Tract 440

Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338—
Landholding Agency: COE
Property Number: 319430025
Status: Unutilized

Comment: 1000 sq. ft., 2-story, asbestos shingle siding, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Texas

Bldgs. 7050, 7058

Fort Bliss

Ft. Bliss TX 79916—

Landholding Agency: Army

Property Number: 219430181

Status: Unutilized

Comment: 1809–8584 sq. ft., 1-story wood frame, needs rehab, most recent use—office/club, off-site use only

Bldgs. 828–830

Fort Hood

Ft. Hood Co: Bell TX 76544—

Landholding Agency: Army

Property Number: 219430182

Status: Unutilized

Comment: 4780 sq. ft. each, 2-story, needs rehab, presence of asbestos, most recent use—classroom, off-site use only

Virginia

Peters Ridge Site

Gathright Dam

Covington VA

Landholding Agency: COE

Property Number: 319430013

Status: Excess

Comment: 64 sq. ft., metal bldg.

Coles Mountain Site

Gathright Dam, Rt. 607 Co: Bath VA

Landholding Agency: COE

Property Number: 319430015

Status: Excess

Comment: 64 sq. ft., 1-story metal bldg.

Washington

Park Hdqts. House

McNary Lock & Dam Project

5107 West Columbia Dr.

Kennewick Co: Denton WA 99336—

Landholding Agency: COE

Property Number: 319430014

Status: Unutilized

Comment: 1696 sq. ft., 1-story brick

residence, off-site use only

Wisconsin

Bldg. 2321

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430225

Status: Unutilized

Comment: 682 sq. ft., 1-story, needs rehab,

most recent use—heat plant

Bldg. 2673

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430226

Status: Unutilized

Comment: 13515 sq. ft., 1-story, needs rehab,

most recent use—theater

Bldg. 2841

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430227

Status: Unutilized

Comment: 5310 sq. ft., 1-story, needs rehab,

most recent use—range support bldg.

Bldg. 10105

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430228

Status: Unutilized

Comment: 3944 sq. ft., 1-story, needs rehab,

most recent use—warehouse

Bldg. 10106

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430229

Status: Unutilized

Comment: 4104 sq. ft., 1-story, needs rehab,

most recent use—warehouse

Bldg. 10107

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430230

Status: Unutilized

Comment: 3944 sq. ft., 1-story, needs rehab,

most recent use—warehouse

Bldg. 10108

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430231

Status: Unutilized

Comment: 3944 sq. ft., 1-story, needs rehab,

most recent use—warehouse

Bldg. 2210

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430232

Status: Unutilized

Comment: 18270 sq. ft., 1-story, needs rehab,

most recent use—vehicle maint.

Bldg. 2320

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430233

Status: Unutilized

Comment: 33345 sq. ft., 1-story, needs rehab,

most recent use—vehicle maint.

Bldg. 2327

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430234

Status: Unutilized

Comment: 3464 sq. ft., 1-story, needs rehab,

most recent use—vehicle maint.

Bldg. 2328

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430235

Status: Unutilized

Comment: 4000 sq. ft., 1-story, needs rehab,

most recent use—vehicle maint.

Bldg. 2763

Fort McCoy

Ft. McCoy Co: Monroe WI 54656—

Landholding Agency: Army

Property Number: 219430236
 Status: Unutilized
 Comment: 3250 sq. ft., 1-story, needs rehab,
 most recent use-admin.

Bldg. 2173A
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430237
 Status: Unutilized
 Comment: 705 sq. ft., 1-story, needs rehab,
 most recent use-dispatch bldg.

Bldg. 2747
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430238
 Status: Unutilized
 Comment: 168 sq. ft., 1-story, needs rehab,
 most recent use-dispatch bldg.

Bldg. 2755
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430239
 Status: Unutilized
 Comment: 168 sq. ft., 1-story, needs rehab,
 most recent use-dispatch bldg.

Bldg. 2853
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430240
 Status: Unutilized
 Comment: 168 sq. ft., 1-story, needs rehab,
 most recent use-dispatch bldg.

Bldg. 851
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430242
 Status: Unutilized
 Comment: 2350 sq. ft., 1-story, needs rehab,
 most recent use-dining facility

Bldg. 850
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Landholding Agency: Army
 Property Number: 219430243
 Status: Unutilized
 Comment: 2350 sq. ft., 1-story, needs rehab,
 most recent use-dining facility

13 Storage Facilities
 Fort McCoy
 Ft. McCoy Co: Monroe WI 54656-
 Location: Bldgs. 1157 1156, 1353, 1357, 1873,
 1874, 2182, 2185, 2189, 2192, 2324, 2325,
 2326
 Landholding Agency: Army
 Property Number: 219430244
 Status: Unutilized
 Comment: 224-5520 sq. ft., 1-story, needs
 rehab, most recent use-storage

Land (by State)
 Pennsylvania
 Portion of Tract L-21A
 Crooked Creek Lake, LR 03051
 Ford City Co: Armstrong PA 16226-
 Landholding Agency: COE
 Property Number: 319430012
 Status: Unutilized
 Comment: Approximately 1.72 acres of
 undeveloped land, subject to gas rights

Suitable/Unavailable Properties*Buildings (by State)*

Kentucky
 Bldg. 232
 Ft. Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430147
 Status: Unutilized
 Comment: 8042 sq. ft., 2-story, needs repair,
 presence of asbestos, most recent use—
 admin., off-site use only

Bldg. 230
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430148
 Status: Unutilized
 Comment: 8042 sq. ft., 2-story, needs repair,
 presence of asbestos, most recent use—
 admin., off-site use only

Bldg. 111
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430149
 Status: Unutilized
 Comment: 17993 sq. ft., 2-story, needs repair,
 presence of asbestos, most recent use—
 transient family quarters

Bldg. 30
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430151
 Status: Unutilized
 Comment: 5310 sq. ft., 2-story, needs rehab,
 presence of asbestos, most recent use—
 admin., off-site use only

Bldgs. 250, 252
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430157
 Status: Unutilized
 Comment: 5310 sq. ft., 2-story, needs repair,
 presence of asbestos, most recent use—
 admin., off-site use only

Bldg. 2105
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430159
 Status: Unutilized
 Comment: 2000 sq. ft., 1-story, needs repair,
 presence of asbestos, most recent use—
 classroom, off-site use only

Bldg. 2905
 Fort Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Number: 219430162
 Status: Unutilized
 Comment: 2000 sq. ft., 1-story, needs repair,
 presence of asbestos, most recent use—
 classroom, off-site use only

Pennsylvania
 Residence
 Crooked Creek Lake, RD #3
 Ford City Co: Armstrong PA 16226-
 Landholding Agency: COE
 Property Number: 319430010
 Status: Unutilized

Comment: 1847 sq. ft., 1-story, wood frame
 residence, fair condition

Unsuitable Properties*Buildings (by State)*

Alaska
 Bldg. 1853, Galena Airport
 Elmendorf AFB AK 99506-4420
 Landholding Agency: Air Force
 Property Number: 189440011
 Status: Unutilized
 Reason: Secured Area Floodway

Bldg. 24-825
 Elmendorf Air Force Base
 Anchorage AK 99506-5000
 Landholding Agency: Air Force
 Property Number: 189440012
 Status: Unutilized
 Reason: Secured Area Within airport runway
 clear zone

Bldg. 24-820
 Elmendorf Air Force Base
 Anchorage AK 99506-5000
 Landholding Agency: Air Force
 Property Number: 189440013
 Status: Unutilized
 Reason: Secured Area Within airport runway
 clear zone

Bldg. 21-878
 Elmendorf Air Force Base
 Anchorage AK 99506-5000
 Landholding Agency: Air Force
 Property Number: 189440014
 Status: Unutilized
 Reason: Secured Area Extensive deterioration

Bldg. 10-480
 Elmendorf Air Force Base
 Anchorage AK 99506-5000
 Landholding Agency: Air Force
 Property Number: 189440015
 Status: Unutilized
 Reason: Secured Area Extensive deterioration

Bldg. 467
 USCG Support Center Kodiak
 Kodiak Co: Kodiak AK 99619-
 Landholding Agency: DOT
 Property Number: 879440003
 Status: Unutilized
 Reason: Secured Area

Bldg. 513
 USCG Support Center Kodiak
 Kodiak Co: Kodiak AK 99619-
 Landholding Agency: DOT
 Property Number: 879440004
 Status: Unutilized
 Reason: Secured Area Extensive deterioration

Bldg. 477
 USCG Support Center Kodiak
 Kodiak Co: Kodiak AK 99619-
 Landholding Agency: DOT
 Property Number: 879440005
 Status: Unutilized
 Reason: Secured Area

Bldg. 530
 USCG Support Center Kodiak
 Kodiak Co: Kodiak AK 99619-
 Landholding Agency: DOT
 Property Number: 879440006
 Status: Unutilized
 Reason: Extensive deterioration

Bldg. 515A
 USCG Support Center Kodiak
 Kodiak Co: Kodiak AK 99619-

Landholding Agency: DOT
Property Number: 879440007
Status: Unutilized
Reason: Secured Area
Bldg. GG
USCG Support Center Kodiak
Kodiak Co: Kodiak AK 99619-
Landholding Agency: DOT
Property Number: 879440008
Status: Unutilized
Reason: Secured Area
California
Bldg. 1203
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440001
Status: Unutilized
Reason: Secured Area
Bldg. 1786
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440002
Status: Unutilized
Reason: Secured Area
Bldg. 10005
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440003
Status: Unutilized
Reason: Secured Area
Bldg. 11032
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440004
Status: Unutilized
Reason: Secured Area
Bldg. 11183
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440005
Status: Unutilized
Reason: Secured Area
Bldg. 11219
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440006
Status: Unutilized
Reason: Secured Area
Bldg. 11238
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440007
Status: Unutilized
Reason: Secured Area
Bldg. 11511
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440008
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. 13412
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA
93437-
Landholding Agency: Air Force
Property Number: 189440009
Status: Unutilized
Reason: Secured Area
Florida
9988 Keepers Quarters A
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440009
Status: Underutilized
Reason: Secured Area Floodway
9989 Keepers Quarters B
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440010
Status: Underutilized
Reason: Secured Area Floodway
9990 Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440011
Status: Underutilized
Reason: Secured Area Floodway
9991 Plant Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440012
Status: Underutilized
Reason: Secured Area Floodway
9992 Shop Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440013
Status: Underutilized
Reason: Secured Area Floodway
9993 Admin. Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440014
Status: Underutilized
Reason: Secured Area Floodway
9994 Water Pump Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440015
Status: Underutilized
Reason: Secured Area Floodway
Storage Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440016
Status: Underutilized
Reason: Secured Area Floodway
9999 Storage Bldg.
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440017
Status: Underutilized
Reason: Secured Area Floodway
Indiana
Brookville Lake—Bldg.
Brownsville Rd. in Union
Liberty Co: Union IN 47353-
Landholding Agency: COE
Property Number: 319440004
Status: Excess
Reason: Extensive deterioration
Nevada
Storage Shed
Fallon Rail Facility
Fallon Co: Churchill NV 89406-
Landholding Agency: Interior
Property Number: 619440004
Status: Unutilized
Reason: Extensive deterioration
North Carolina
Bldg. 3248
Marine Corps Air Station, Cherry Point
Havelock Co: Craven NC 28533-
Landholding Agency: Navy
Property Number: 779440009
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. AS 552, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440010
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. AS 587, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440011
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. TT 38, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440012
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. AS 49, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440013
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. AS 147, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440014
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. BB 166, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440015
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. SM 183, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440016
Status: Unutilized
Reason: Secured Area Extensive deterioration
Bldg. BB 222, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440017
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 451, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440018
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 630, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440019
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. S 745, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440020
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 805, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440021
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. AS 866, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440022
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 954, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440023
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 1808, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440024
Status: Unutilized

Reason: Secured Area Extensive deterioration
Bldg. 1810, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542-0004
Landholding Agency: Navy
Property Number: 779440025
Status: Unutilized

Reason: Secured Area Extensive deterioration

South Dakota

Bldg. 6905, Ellsworth AFB
Ellsworth AFB Co: Pennington SD 57706-
Landholding Agency: Air Force
Property Number: 189440010
Status: Underutilized
Reason: Secured Area

Land (by State)

Alabama

Tract A-152, Demopolis Lake
West Jackson Street
Demopolis Co: Marengo AL 36732-
Landholding Agency: COE
Property Number: 319440005
Status: Underutilized
Reason: Floodway

Old Lock 9

Armistead I. Selden
Sec. 5 & 8, Twp. 23 North, Range 4 East Co:
Green AL 35462-
Landholding Agency: COE
Property Number: 319440006
Status: Underutilized

Reason: Floodway
Florida

Land—approx. 220 acres
Cape San Blas
Port St. Joe Co: Gulf FL
Landholding Agency: DOT
Property Number: 879440018
Status: Underutilized
Reason: Secured Area Floodway
Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410-9321
Landholding Agency: COE
Property Number: 319440007
Status: Underutilized
Reason: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410-9321
Landholding Agency: COE
Property Number: 319440008
Status: Underutilized
Reason: Floodway

[FR Doc. 94-28998 Filed 11-23-94; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. N-94-3750; FR-3700-N-03]

Notice of Funding Availability for Homeless Assistance; Clarification of Acceptance of Applications Received by Due Date

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability for Homeless Assistance; Clarification of Acceptance of Applications Received by Due Date.

SUMMARY: On May 10, 1994, the Department published a notice of funding availability (NOFA) that announced the availability of approximately \$545 million for applications for assistance designed to help communities move toward continuum of care systems to assist homeless persons. The purpose of this notice is to clarify that HUD will accept applications that arrived at HUD Headquarters by the application due date.

EFFECTIVE DATE: This notice does NOT extend the application due date. The application due date remains as set forth in the May 10, 1994 NOFA.

FOR FURTHER INFORMATION CONTACT: Please contact the HUD Field Office for the area in which the proposed project is located for additional information. Telephone numbers are included in the list of Field Offices set forth in the appendix to the May 10, 1994 NOFA.

SUPPLEMENTARY INFORMATION:

I. Background

On May 10, 1994 (59 FR 24255), the Department published a notice of funding availability (NOFA) that announced the availability of approximately \$545 million for applications for assistance designed to help communities move toward continuum of care systems to assist homeless persons. The funds under the May 10, 1994 NOFA were made available under three programs: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals (Section 8 SRO program).

The May 10, 1994 NOFA provided for applications under the Shelter Plus Care and Section 8 SRO programs to be submitted to Room 7262 at HUD Headquarters by 6:00 pm Eastern Time on July 5, 1994, and under the Supportive Housing Program to be submitted to Room 7262 at HUD Headquarters by 6:00 pm Eastern Time on August 5, 1994.

The purpose of this notice is to clarify that HUD will review all applications that arrived at HUD Headquarters by 6:00 pm Eastern Time on the application due date (and not only those that arrived at Room 7262 by this time on the application due date). Confirmation that the application arrived at HUD Headquarters by 6:00 pm application due date will be based on the "visitor sign-in sheets" at the HUD security guard desks (these sign-in sheets are also applicable to persons working for delivery and messenger services).

Dated: November 17, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 94-28997 Filed 11-23-94; 8:45 am]

BILLING CODE 4210-29-M

Office of the Secretary

[Docket No. N-94-3837; FR-3827-N-01]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department of Housing and Urban Development (HUD) proposes to amend its system of records entitled "Accounting Records, HUD/DEPT-2" in its inventory of systems of

records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. Notice of this system was last published at 55 FR 17676, April 26, 1990.

EFFECTIVE DATE: This action will be effective without further notice on December 27, 1994, unless comments are received that would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed amendment to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, at (202) 708-2374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD/DEPT-2 contains a variety of records relating to HUD's accounting functions. These records are maintained for the purpose of supporting HUD's administrative management and collection of delinquent debts, including past due loan payments, overpayments, fines, penalties, fees, damages, interest, leases, sales of real property, that are owed to HUD or to other Federal agencies. Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to add a new routine use disclosure to this system of records. Specifically, the Resolution Trust Corporation (RTC) will be added as a routine use disclosure. RTC will use the records obtained from this system of records to prescreen potential contractors for bad debts prior to acquiring their services.

The amended portion of the system notice is set forth below. Previously, the system and a prefatory statement containing the general routine uses applicable to all HUD systems of records was published in the "Federal Register Privacy Act Issuances, 1989 Compilation, Volume I."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record system.

The system report, as required by 5 U.S.C. 552a(r), has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on

Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to paragraph 4c of Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records about Individuals" dated June 25, 1993 (58 FR 36075, July 2, 1993).

Authority: 5 U.S.C. 552a; 88 Stat. 1896; sec 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, DC, November 17, 1994.

Willie H. Gilmore,

Deputy Assistant Secretary for Resource Management and Operations.

HUD/DEPT-2

SYSTEM NAME:

Accounting Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, other routine uses are as follows:

(a) To the U.S. Treasury—for disbursements and adjustments thereof.

(b) To the Internal Revenue Service—for reporting of sales commissions and for reporting of discharge indebtedness;

(c) To the General Accounting Office, General Service Administration, Department of Labor, Labor housing authorities, and taxing authorities—for audit, accounting and financial reference purposes.

(d) To mortgage lenders—for accounting and financial reference purposes, for verifying information provided by new loan applicants and evaluating creditworthiness.

(e) To HUD contractors—for debt and/or mortgage note servicing.

(f) To financial institutions that originated or serviced loans—to give notice of disposition of claims.

(g) To title insurance companies—for payment of liens.

(h) To local recording offices—for filing assignments of legal documents, satisfactions, etc.

(i) To the Defense Manpower Data Center (DMDC) of the Department of Defense and the U.S. Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by HUD in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) by

voluntary repayment, or by administrative or salary offset procedures.

(j) To any other Federal agency for the purpose of effecting administrative or salary offset procedures against a person employed by that agency or receiving or eligible to receive some benefit payments from the agency when HUD as a creditor has a claim against that person.

(k) With other agencies; such as, Departments of Agriculture, Education, Justice and Veteran Affairs, and the Small Business Administration—for use of HUD's Credit Alert Interactive Voice Response System (CAIVRS) to prescreen applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government.

(l) To the Internal Revenue Service by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by HUD against the taxpayer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3217, and 3718.

(m) To a credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file on an individual for use in the administration of debt collection.

(n) To the U.S. General Accounting Office (GAO), Department of Justice, United States Attorney, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

(o) To a debt collection agency for the purpose of collection services to recover monies owed to the U.S. Government under certain programs or services administered by HUD.

(p) To any other Federal agency including, but not limited to, the Internal Revenue Service (IRS) pursuant to 31 U.S.C. 3720A, for the purpose of effecting an administrative offset against the debtor for a delinquent debt owed to the U.S. Government by the debtor.

(q) To the Resolution Trust Corporation—to prescreen potential contractors for bad debts prior to acquiring their services.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from the record system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3). The

disclosure is limited to information necessary to establish the identity of the individual, including name, address and taxpayer identification number (Social Security Number); the amount, status, and history of the claim, and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a credit report.

[FR Doc. 94-28999 Filed 11-23-94; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-930-1310-01; NMMN 64972]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97-451, a petition for reinstatement of Oil and Gas Lease NMMN 64972, Lea County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from April 1, 1974, the date of the termination. No valid lease has been issued affecting the land. The lessee has agreed to new lease terms for rentals and royalties at rates of \$5.00 per acre, or fraction thereof, and 16 $\frac{2}{3}$ percent, respectively. Payment of a \$500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set in Section 31 (d) and (e), the Bureau of Land Management (BLM) is proposing to reinstate the lease effective April 1, 1994, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Grace A. Gonzales, BLM, New Mexico State Office, (505) 438-7539.

Dated: November 14, 1994.

Grace A. Gonzales,

Acting Chief, Lease Maintenance Unit.

[FR Doc. 94-29027 Filed 11-23-94; 8:45 am]

BILLING CODE 4310-FB-M

[MT-060-03-3120-00]

Notice of Intent; Judith-Valley-Phillips Resource Management Plan Amendment; Fergus County, MT

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice is hereby given that the Judith-Valley-Phillips Resource Management Plan will be amended by the Judith Resource Area, Lewistown, Montana.

SUMMARY: The Bureau of Land Management (BLM) will amend the Judith-Valley-Phillips Resource Management Plan (RMP) with respect to management of public lands in the North Moccasin Mountains. The BLM proposes exchanging 150.52 acres of Federal surface estate for 129.24 acres of private land. The Federal land is legally described as Lots 1, 2, 5, 7, 8, 13, and 14 Section 29, Lots 8, 9, 16, 18, 19, 23, and 25 Section 31, and Lots 2, 3, and 4 Section 32, T. 18 N., R. 18 E., P.M.M., Fergus County, Montana. The private land is legally described as MS 6366, MS 6727, MS 6728, MS 8470, MS 8471, MS 8472, MS 8473, and MS 8474, T. 18 N., R. 18 E., P.M.M., Fergus County, Montana.

Disposal of the Federal lands was not analyzed in the Judith-Valley-Phillips Resource Management Plan (RMP) and associated Environmental Impact Statement. Disposal of Federal land requires that the specific tract be identified in the land use plan with the criteria to be met for exchange and discussion of how the criteria have been satisfied. This will be part of the plan amendment and environmental assessment. The Judith Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the effects of disposal.

PUBLIC PARTICIPATION: Comments and recommendations on this notice to amend the Judith-Valley-Phillips RMP should be received on or before 30 days from the date of this notice.

ADDRESSES: Comments should be sent to the Judith Resource Area, P.O. Box 1160, Lewistown, MT 59457-1160.

FOR FURTHER INFORMATION CONTACT: Chuck Otto, Area Manager, Judith Resource Area, P.O. Box 1160, Lewistown, MT 59457-1160, (406) 538-7461.

Dated: November 15, 1994.

David L. Mari,

District Manager.

[FR Doc. 94-29028 Filed 11-23-94; 8:45 am]

BILLING CODE 4310-DN-P

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Development in Walton County, FL, Called Stallworth Preserve

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Stallworth Preserve Owners Association (Applicant), is seeking an incidental take permit from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, (Act) as amended. The permit would authorize the take of the endangered Choctawhatchee beach mouse *Peromyscus polionotus allophrys*, in Walton County, Florida for a period of 10 years. The proposed taking is incidental to a planned residential development on an 7 acre tract of land owned by the Applicant. The tract is located just southwest of County Road 30A in south Walton County. The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA or HCP may be obtained by making a request to the Regional Office address below. This notice also advises the public that the Service has made a preliminary determination that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended. The Findings of No Significant Impact is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and HCP should be received on or before December 27, 1994.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, or the Jacksonville, Florida, Field Office. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please

reference permit under PRT-796769 in such comments.

Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, (telephone 404/679-7110, fax 404/679-7081).

Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216-0912, (telephone 904/232-2580, fax 904/232-2404).

FOR FURTHER INFORMATION CONTACT:

Dawn Zattau at the Jacksonville, Florida, Field Office, or Rick G. Gooch at the Atlanta, Georgia, Regional Office.

SUPPLEMENTARY INFORMATION: The Choctawhatchee Beach Mouse (CBM), *Peromyscus polionotus allophrys*, is a subspecies of the common old field mouse *Peromyscus polionotus* and is restricted to the dune systems of the Gulf Coast of Florida. The known current range of CBM extends from Choctawhatchee Bay to St. Andrew Bay. The sand dune systems inhabited by this species are not uniform; several habitat types are distinguishable. The depth of the habitat from the beach inland varies depending on the configuration of the sand dune system and the vegetation. Generally, these habitat zones are considered as primary dune (dunes immediately fronting the beach) supporting sea oats and other widely scattered grasses, and interdune area consisting of other grasses, and sedges, and a secondary dune zone supporting small trees and shrubs. The Applicant proposes to construct a planned unit development on approximately 7 acres, a portion of which is CBM habitat. A portion of the Applicant's property is within 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico, designated critical habitat of the CBM (See *Code of Federal Regulations* Title 50, § 17.95(a)). Initial construction of roads and utilities and subsequent development of individual homesites may result in death of or injury to CBM incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development may reduce the availability of feeding, shelter, and nesting habitat.

The EA considers the environmental consequences of three alternatives, including acceptance of the HCP as submitted, no action, or public purchase of the subject property.

Dated: November 17, 1994.

Jerome M. Butler,

Acting Regional Director.

[FR Doc. 94-29052 Filed 11-23-94; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Public Hearing

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of the Overseas Private Investment Corporation (OPIC) on Department 19, 1994. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATES: The hearing will be held on December 19, 1994 and will begin promptly at 2 p.m. Prospective participants must submit to OPIC before close of business December 7, 1994, notice of their intent to participate.

ADDRESSES: The location of the hearing will be: Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC.

Notices and prepared statements should be sent to Harvey Himberg, Investment Development Department, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527.

Procedure

(a) Attendance; Participation. The hearing will be open to the public. However, a person wishing to present views at the hearing must provide OPIC will advance notice on or before December 7, 1994. The notice must include the name, address and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) Prepared Statements. Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5 p.m. on December 16, 1994. Prepared statements must be typewritten, double spaced and may not exceed twenty-five (25) pages.

(c) Duration of Presentations. Oral presentations will in no even exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to

afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) Agenda. Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subject or subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) Publication of Proceedings. A verbatim transcript of the hearing will be compiled and published. The transcript will be available to members of the public at the cost of reproduction. **SUPPLEMENTARY INFORMATION:** OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for projects which confer positive developmental benefits upon the project country while avoiding negative effects on the U.S. economy and the environment of the project country. OPIC's Board of Directors is required by section 231A(b) of the Foreign Assistance Act of 1961, as amended ("the Act") to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country)."

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC has agreed to provide a worker rights report to the Congress for any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation

(Pub. L. 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT: Harvey A. Himberg, Investment Development Department, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527 (202) 336-8614 or by facsimile at (202) 408-5145.

Dated: November 17, 1994.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 94-29001 Filed 11-23-94; 8:45 am]

BILLING CODE 3210-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-663 (Final)]

Certain Paper Clips From China

Determination

On the basis of the record¹ developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of certain paper clips, provided for in subheading 8305.90.30 of the Harmonized Tariff Schedule of the United States,² that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 16, 1994, following a preliminary determination by the Department of Commerce that imports of certain paper clips from China were being sold at LTFV within

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

² The imported paper clips covered by this investigation include paper clips made wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), the foregoing with a wire diameter between 0.64 and 1.91 millimeters (0.025 and 0.075 inches), regardless of physical configuration, except as specifically excluded. Such products may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1" clips, "No. 3" clips, "jumbo" or "giant" clips, "gem" clips, "frictioned" clips, "Perfect Gems," "Marcel Gems," "universal" clips, "nifty" clips, "peerless" clips, "ring" clips, and "glide-on" clips. Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTS.

the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 8, 1994 (59 FR 29614). The hearing was held in Washington, DC, on October 4, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 14, 1994. The views of the Commission are contained in USITC Publication 2829 (November 1994), entitled "Certain Paper Clips From the People's Republic of China: Investigation No. 731-TA-663 (Final)."

By order of the Commission.

Issued: November 16, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-28951 Filed 11-23-94; 8:45 am]

BILLING CODE 7020-02-P

Honey From the People's Republic of China

[Investigation No. 731-TA-722 (Preliminary)]

Determination

On the basis of the record¹ developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930,² that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of honey³ from The People's Republic of China (China), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 3, 1994, a petition was filed with the U.S. International Trade

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² 19 U.S.C. 1673b(a).

³ 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; they are currently provided for in heading 0409 and subheadings 1702.90 and 2106.90 of the *Harmonized Tariff Schedule of the United States* (HTS).

Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel on behalf of the American Beekeeping Federation, Inc. (ABF) and the American Honey Producers Association (AHPA), alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of honey from China.

Accordingly, effective October 3, 1994, the Commission instituted antidumping investigation No. 731-TA-722 (Preliminary). Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 13, 1994.⁴ The conference was held in Washington, DC, on October 24, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 17, 1994. The views of the Commission are contained in USITC Publication 2832 (November 1994), entitled "Honey From The People's Republic of China: Investigation No. 731-TA-722 (Preliminary)."

By order of the Commission.

Issued: November 18, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-28952 Filed 11-23-94; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-360]

Issuance of General Exclusion Order

In the matter of certain devices for connecting computers via telephone lines.

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436. Telephone: (202) 205-3113.

SUPPLEMENTARY INFORMATION: The authority for the Commission's

⁴ 59 FR 51996.

determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.58).

Farallon Computing, Inc. ("Farallon") filed a complaint on October 12, 1993, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging that 16 respondents had violated section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain devices for connecting computers via telephone lines. Those 16 respondents were: (1) ABL Electronics Corp. ("ABL"), (2) Caltechnology International Ltd. ("Caltechnology"), (3) CPU Products ("CPU"), (4) Enhance Cable Technology ("Enhance"), (5) Focus Enhancements, Inc. ("Focus"), (6) Full Enterprises Corp. ("Full"), (7) Good Way Industrial Co., Ltd. ("Good Way"), (8) MACProducts (USA) (now known as DGR Technologies, Inc.) ("DGR"), (9) MicroComputer Cable Co., Inc. ("MCC"), (10) Ming Technology Corp. ("Ming"), (11) Pan International (USA) ("Pan"), (12) Shiunn Yang Enterprises Co., Ltd. ("Shiunn Yang"), (13) Taiwan Techtron Corp. ("Techtron"), (14) Technology Works, Inc. ("TechWorks"), (15) Total Technologies, Ltd. ("Total"), and (16) Tremon Enterprises Co., Ltd. ("Tremon"). Complainant Farallon alleged infringement of certain claims of U.S. Letters Patent 5,003,579, which it owns. The Commission published a notice of investigation in the *Federal Register* on November 17, 1993 (58 FR 60671). Two additional respondents were subsequently added to the investigation: Ji-Haw Industrial Co., Ltd. ("Ji-Haw"), and Tri-Tech Instruments Co., Ltd. ("Tri-Tech"). See 59 FR 10164 (March 3, 1994).

Of the 18 respondents named in this investigation, the Commission has approved terminations based on settlements with respect to the following 16 respondents: ABL, Caltechnology, CPU, DGR, Enhance, Focus, Full, Good Way, Ji-Haw, MCC, Ming, Pan, Shiunn Yang, Techtron, Total, and Tremon. Only respondents Tri-Tech and TechWorks have not settled with complainant Farallon.

On April 26, 1994, the ALJ granted Farallon's motion for a summary determination that a domestic industry exists in accordance with subsections 337(a)(2) and (a)(3). The Commission published a notice of its decision not to review that ID on May 24, 1994. See 59 FR 26811-12 (May 24, 1994).

On April 28, 1994, Farallon filed a motion for summary determination of

violation of section 337. The motion was unopposed by any respondent and was supported by the Commission investigative attorney. On May 24, 1994, the presiding ALJ issued an ID finding that there was a violation of section 337. The ALJ found that the '579 patent was valid and infringed, that Tri-Tech imported the infringing product into the United States, and that after importation, TechWorks sold the infringing product in the United States. No petitions for review of the ID or government agency comments were received by the Commission.

On June 28, 1994, the Commission determined not to review the ID, which thereby became the determination of the Commission. The Commission also requested written submissions concerning the issues of remedy, the public interest, and bonding. See 59 FR 34862-63 (July 7, 1994) and 59 FR 48449 (Sept. 21, 1994).

On November 17, 1994, the Commission made its determinations on the issues of remedy, the public interest, and bonding. The Commission determined that the appropriate form of relief is a general exclusion order prohibiting the entry for consumption of infringing devices for connecting computers via telephone lines. Finally, the Commission determined that the public interest factors enumerated in 19 U.S.C. 1337(d) do not preclude the issuance of the aforementioned relief, and that the bond during the Presidential review period shall be in the amount of 346 percent of the entered value of the infringing devices for connecting computers via telephone lines.

Copies of the Commission order, the Commission opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Issued: November 18, 1994.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-29064 Filed 11-23-94; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31102]

Wisconsin Central Ltd.—Exemption Acquisition and Operation—Certain Lines of Soo Line Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed modification of historic preservation condition and request for comments.

SUMMARY: The Commission proposes to remove a condition, imposed in 1987 in connection with a sale of rail lines, that prevents the railroad from selling, destroying or modifying properties until completion of procedures under section 106 of the National Historic Preservation Act.

DATES: Comments are due by January 9, 1995.

ADDRESSES: An original and 10 copies of all comments must be sent to Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31102, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC, 20423.

FOR FURTHER INFORMATION CONTACT: Louis Mackall, (202) 927-6056. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The Commission is proposing to reopen this proceeding to remove a condition that was imposed seven years ago in this rail line sale proceeding. The condition appears to be inconsistent with our current procedures and may no longer be necessary.

Wisconsin Central Ltd. (Wisconsin Central) purchased approximately 1,800 miles of rail line from Soo Line Railroad Company (Soo) on October 11, 1987, pursuant to the class exemption for rail line sales, 49 CFR 1150.31 *et seq.*¹ We allowed the sale to proceed under the class exemption, but imposed an historic preservation condition. Because this case was processed under the class exemption procedures, and we did not want to delay the public benefit of the line sale in preserving rail service, we permitted the sale, but ordered the carrier not to take any steps that would affect historic properties until after the National Historic Preservation Act (NHPA) process could be completed.

Section 106 of the NHPA, 16 U.S.C. 470f, requires that, when a federal

¹ See *Wisconsin Central Ltd.—Exemption Acquisition and Operation—Certain Lines of Soo Line Railroad Company*, Finance Docket No. 31102 (ICC served July 28, 1988). The exemption overrides certain regulatory requirements associated with filing a formal application under 49 U.S.C. 10901.

agency approves a license, it must "take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register [of historic buildings and places]." Under the NHPA, we consult with the appropriate state historic preservation officer (SHPO) and, where appropriate, the Advisory Council on Historic Preservation (ACHP) to identify historic properties, determine if they will be adversely affected, and consider appropriate mitigation.

The broad historic preservation condition we imposed in this case was worded as follows:

The Commission will undertake a section 106 National Historic Preservation Act process in this matter. Pending completion thereof, [Wisconsin Central] shall refrain from taking any action that may jeopardize the historic integrity of sites and structures 50 years old or older.

Because hundreds of properties were transferred, the Commission's Section of Environmental Analysis (SEA) attempted to enter into some kind of "programmatic agreement" (36 CFR 800.13)² or "memorandum of agreement" (36 CFR 800.5)³ with ACHP and the various SHPOs involved to facilitate the process by identifying the historic properties adversely affected by the transfer, so that we could craft appropriate mitigation conditions for them. This effort has been unsuccessful, however, and the process of determining appropriate historic preservation measures for each particular property that Wisconsin Central has subsequently sought to sell or demolish has been inordinately slow, often taking several years.

We revised our historic preservation rules in 1991 so that now the historic preservation process is only required in line sale cases where, at the time of the transfer, the applicant plans to dispose of or alter properties subject to our jurisdiction that are 50 years or older.⁴ *Implementation of Environmental Laws,*

7 I.C.C.2d 807, 828 (1991). Our current rules do not require carriers to file an historic report, and historic preservation conditions are not imposed, for rail line sales "where further approval is required to abandon any service and there are no plans to dispose of or alter properties subject to ICC jurisdiction that are 50 years old or older," 49 CFR 1105.8 (b)(1). Thus, under our new rules, if a condition were imposed in a line sale case such as this one, it would apply only to properties subject to our jurisdiction ("used or useful" in rail service, see 49 CFR 1105.8) that the buyer has plans to dispose of or alter outside the context of a further abandonment or sale application.⁵ These rules have been applied in approximately 100 cases and have worked well in narrowing the focus of the historic review process to rail properties that may actually be affected by a sale transaction.

In contrast, as noted previously, the broad condition imposed here has not worked well. Before Wisconsin Central can dispose of any of the properties it obtained from Soo in 1987, it must complete the historic preservation process for each particular property. This requirement usually results in a lengthy delay for each property. Moreover, as things now stand, this situation would continue indefinitely, unless amended, the condition will continue to cover all of Wisconsin Central's properties as long as it remains a railroad.⁶

More than seven years have passed since Wisconsin Central acquired these properties. Accordingly, it seems to us that from this point forward, Wisconsin Central's sale or demolition of properties should no longer be considered to be the result of the original purchase from the Soo. Rather, because of the passage of time, these decisions more appropriately should be considered the normal result of the carrier's continuing ownership and management of these properties. It seems inappropriate to continue to impose a greater burden on Wisconsin Central than it would face if its acquisition proceeding took place now.

We may modify conditions we have imposed in our proceedings, and we preliminarily conclude that it is appropriate to do so here. Accordingly,

² A programmatic agreement, negotiated between ACHP and the responsible agency official in consultation with the appropriate SHPO, may be used to determine proper historic preservation measures for projects when "effects on historic properties are similar and repetitive." The programmatic agreement is a contract that to be effective must be agreed to in writing by ACHP, the SHPO, and the agency.

³ A memorandum of agreement (MOA) may be used, usually for a single project, where the agency and the SHPO agree on a course of action. ACHP must have an opportunity for comment.

⁴ These rule changes were made in consultation with the ACHP. It is unclear whether Wisconsin Central would have had to file a historic report or be subject to historic preservation conditions under this new standard.

⁵ If subsequent abandonment or sale authority is required for the disposition of properties, the appropriate NHPA review will take place in the context of those proceedings.

⁶ We would note that the problem relates to sales of properties that are not part of a line for which abandonment authority is sought. In abandonment proceedings, historic structures would be documented anyway.

we are reopening this proceeding and proposing to modify the condition to require completion of the historic review process only with regard to specific properties for which that process is already underway or of which the carrier has informed SEA that it plans to dispose. The disposal of other properties would be presumed to be outside the scope of the proceeding in which we authorized the rail line sale.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources. This proposal should not have any adverse impact on small entities.

Decided: November 7, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons, Morgan, and Owen. Vice Chairman Phillips recused herself in this proceeding.

Vernon A. Williams,

Secretary.

[FR Doc. 94-29065 Filed 11-23-94; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) How often the form must be filled out or the information is collected;
- (4) Who will be asked or required to respond, as well as a brief abstract;
- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) An estimate of the total public burden (in hours) associated with the collection; and
- (7) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you

anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(1) Application for Transfer of Petition for Naturalization.

(2) Form N-455. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used by a petitioner for naturalization to request a transfer of his/her petition to another court; also used by the Immigration and Naturalization Service to make recommendations to the court.

(5) 100 annual respondents at .166 hours per response.

(6) 17 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: November 18, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94-28968 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-10-M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) How often the form must be filled out or the information is collected;
- (4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and

(7) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(1) Application to Extend/Change Nonimmigrant Status.

(2) Form I-539. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is for a nonimmigrant to apply for an extension of stay or change to another nonimmigrant status. Also, this data will be used by the Immigration Service to determine eligibility for the requested immigration benefit.

(5) 241,000 annual respondents at .750 hours per response.

(6) 180,750 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: November 18, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94-28969 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-10-M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following

collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and

(7) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Telephone Verification System (TVS) Pilot Phase II.

(2) Immigration and Naturalization Service.

(3) Monthly.

(4) Business or other for-profit. This information will be used to determine the number of alien employers who are unauthorized for employment in the United States as a result of the Telephone Verification Project. The users of the Telephone Verification System are various employers throughout the United States.

(5) 200 annual respondents at .58 hours per response.

(6) 1,392 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: November 18, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94-28970 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-10-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States v. Alloyd Asbestos Abatement Co., et al.*, Civil Action No. C-3-91-107, were lodged on November 8, 1994 with the United States District Court for the Southern District of Ohio. The Consent Decree resolves violations of Section 112(c) of the Clean Air Act, 42 U.S.C. § 7412(c), as amended, and the National Emission Standards for Hazardous Air Pollutants for asbestos (the "asbestos NESHAP"), 40 C.F.R. Part 61, Subpart M. The Consent Decrees require Defendant Ohio State University ("OSU") to pay civil penalties of \$7500 and to establish asbestos control programs and achieve full compliance with the asbestos NESHAP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Alloyd Asbestos Abatement Co., et al.*, DOJ Ref. #90-5-2-1-1554.

The proposed consent decree may be examined at the office of the United States Attorney, 602 Federal Building, 200 West Second Street, Dayton, Ohio 45402; the Region Five Office of the Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case, and enclose a check in the amount of \$5.75 for the OSU decree (25 cents per page

reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29030 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Extension of Time for Public Comment Regarding Lodged Consent Decree

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice was given on September 22, 1994 at 59 Fed. Reg. 48640, that a proposed consent decree was lodged in *United States v. Atlantic Refining and Marketing Co., Inc., and Sun Co., Inc., (R&M)*, with the United States District Court for the Eastern District of Pennsylvania. The consent decree addresses alleged violations of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1342, which occurred at the Philadelphia, Pennsylvania oil refinery owned by Atlantic Marketing and operated by Sun Co., Inc., R&M. Both entities are subsidiaries of Sun Company, Inc. Specifically, the defendants allegedly violated several parameters of the National Pollutant Discharge Elimination System ("NPDES") permit for the Philadelphia refinery. The parameters allegedly violated include those for total suspended solids, oil and grease, total chromium, hexavalent chromium, biochemical oxygen demand, phenolics, ammonia (as nitrogen), zinc, and pH. The violations included eleven bypasses of untreated water to the Schuylkill River.

At the request of citizens who live in the vicinity of the refinery, the Department of Justice is extending the time for public comment relating to the proposed consent decree through December 8, 1994. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Atlantic Refining and Marketing Co., et al.*, DOJ Ref. #90-5-1-1-5056.

The proposed consent decree may be examined at the office of the United States Attorney, 615 Chestnut Street, 13th Floor, Suite 1300, Philadelphia, Pennsylvania 19106; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the

proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$8.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29031 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that on November 4, 1994, a proposed Consent Decree in *United States v. International Harvester Co.*, Civil Action No. C-3-85-365, was lodged with the United States District Court for the Southern District of Ohio, Western Division. This Consent Decree represents a settlement of claims against International Harvester Co., now known as Navistar International Transportation Corporation, for alleged violations of the Clean Air Act arising from truck painting operations at two International Harvester facilities in the Springfield, Ohio area. The complaint alleged violations of the Clean Air Act and the federally approved Ohio State Implementation Plan due to excess air emissions of volatile organic compounds. Under this settlement between the United States and Navistar, Navistar will pay the United States a civil penalty of \$2,703,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. International Harvester Co.*, D.J. Ref. 90-5-2-1-740.

The proposed Consent Decree may be examined at the U.S. Environmental Protection Agency, Region V, Air and Radiation Branch Docket Room, 77 West Jackson Blvd., Room 1717, Chicago, Illinois, 60604, (202) 886-1020, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street,

NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of \$2.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29032 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA")

In accordance with Departmental policy, 28 C.F.R. § 50.7, and 42 U.S.C. § 9622(d), notice is hereby given that a consent decree in *United States v. Linemaster Switch Corporation*, 3-94-0170, was lodged with the United States District Court for the District of Connecticut, on October 11, 1994.

The consent decree resolves claims for past and future costs and implementation of response actions sought in an action brought by the United States against defendant Linemaster Switch Corporation ("Linemaster"), under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, relating to the Linemaster Superfund Site ("Site"), located in Woodstock, Windham County, Connecticut. Under the proposed settlement, Linemaster will perform the remedy for the Site and reimburse the United States for its past and future costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Linemaster Switch Corporation*, DOJ Ref. # 90-11-3-878A.

The proposed consent decree may be examined at the United States Attorney's Office for the District of Connecticut, 157 Church Street, 23rd Flr, New Haven, CT 06508; the Region I Office of the Environmental Protection Agency, J.F. Kennedy Federal Building, Boston, MA 02203-2211; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed

consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$25.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29033 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 C.F.R. § 50.7, notice is hereby given that on October 26, 1994, a Consent Decree in *United States v. Public Service Electric & Gas Co., Inc.*, Civil Action No. 94-5197 (WGB), was lodged with the United States District Court for the District of New Jersey. The proposed Consent Decree requires the Defendant to pay a civil penalty of \$230,000, and obligates the Defendant to provide reports to EPA detailing all asbestos demolition renovation projects in progress and to be undertaken within one year of entry of the Consent Decree at any of the Defendant's Gas Business Unit ("GBU") facilities. In addition, the Defendant is required to perform an inspection for friable asbestos-containing materials at each GBU facility at which the Defendant intends to conduct demolition or renovation operations within one year of entry of the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Public Service Electric & Gas Co., Inc.*, D.J. 90-5-2-1-1866.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of New Jersey, 970 Broad Street, Room 501, Newark, New Jersey 07102; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed Consent Decree can be obtained in

person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy of the Consent Decree, please enclose a check in the amount of \$4.00 (25 cents per page reproduction costs) payable to the "Consent Decree Library."

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29034 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed settlement agreement in *In re Valley Steel Products Company, Inc.*, No. 92-40778-293, (Bankr. E.D. Mo.) was lodged on November 3, 1994, with the United States Bankruptcy Court for the Eastern District of Missouri. The agreement resolves claims of the United States against Debtor Valley Steel Products Company, Inc. ("Valley Steel") in the above-referenced bankruptcy under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Sinclair Refinery Superfund Site in Wellsville, New York (the "Site"). In the proposed settlement agreement Valley Steel agrees to give the United States an allowed general unsecured pre-petition claim of \$240,000 in settlement of the United States' claims for response costs incurred and to be incurred by the Environmental Protection Agency at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re Valley Steel Products Company, Inc.*, No. 92-40778-293, DOJ Ref. #90-11-2-298B.

The proposed settlement agreement may be examined at the Office of the United States Attorney, 1114 Market Street, St. Louis, Missouri, 63101; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York, 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005,

(202) 624-0892. A copy of the proposed settlement agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$2.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-29035 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 93-77]

Nasir Gore, T/A All Drugs Pharmacy, Inc.; Revocation of Registration

On August 31, 1993, the Deputy Assistant Administrator, then Director, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Nasir Gore, T/A Family Pharmacy and All Drugs Pharmacy, Inc. (Respondent), proposing to revoke the pharmacies' DEA Certificates of Registration, BF1426306 and BA2097562, under 21 U.S.C. 824(a)(4), and to deny any pending applications under 21 U.S.C. 823(f). The Order to Show Cause alleged that Family Pharmacy was not licensed in New Jersey, the state in which it is registered, and that the continued registration of Respondent would be inconsistent with the public interest.

Respondent, by counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held in Newark, New Jersey on April 12, 1994.

On July 19, 1994, Judge Tenney issued his findings of fact, conclusions of law and recommended ruling in which he recommended that the registration of all Drugs Pharmacy, Inc., be revoked and any pending applications of Nasir Gore be denied. No exceptions were filed and on August 19, 1994, the administrative law judge transmitted the record of the proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrative law judge found that detectives from the Kearny, New Jersey Police Department received information from a confidential informant that Respondent was selling tablets of Ativan, a Schedule IV controlled substance, to people off the street for one dollar per tablet. Subsequently, in September and October 1992, police officers conducted three controlled purchases of Ativan at Family Pharmacy. Each time, Mr. Nasir Gore, owner and operating pharmacist, provided a confidential informant with Ativan in exchange for cash. Mr. Gore testified at the proceeding that he had given the informant ninety controlled substance tablets, but that the confidential informant had told him that he had prescription which he would bring in later.

The administrative law judge found that on November 6, 1992, Nasir Gore entered into a Consent Order with the New Jersey State Board of Pharmacy that he cease and desist from the practice of pharmacy in the State of New Jersey. On October 18, 1993, before the New Jersey Superior Court for Hudson County, Nasir Gore pled guilty to a single felony count of distributing or dispensing controlled dangerous substances in violation of N.J. Revised Statute 2C:35-5A(1) and 5b(3).

The administrative law judge also found that DEA conducted an accountability audit of Family Pharmacy based on records seized by the Kearny Police Department. However, Judge Tenney found "chain of custody" problems with respect to the records audited and determined that the evidence DEA provided was not persuasive to support allegations of inadequate recordkeeping with respect to Ativan.

In October or November 1992, Family Pharmacy ceased operation as a Pharmacy. Therefore, the administrative law judge found that the DEA registration of Family Pharmacy; BF1426306, terminated by operation of law prior to the initiation of the proceeding, 21 CFR 1301.62.

The administrative law judge found that Nasir Gore was operating All Drugs Pharmacy, Inc. in November 1993, and that he had been observed acting as the pharmacist-in-charge. Mr. Gore testified that he had sold the pharmacy to his brother-in-law, Tariq Matin, on November 3, 1993, and he produced a copy of a contract and related documents. However, the pharmacy was operating under a New York State pharmacy license issued to Mr. Gore, that indicated that Mr. Gore was the sole pharmacist and owner of All Drugs Pharmacy, Inc. Judge Tenney found that

there was not evidence of money or other consideration exchanging hands, no evidence of inventory transfers, and no evidence that the DEA or the state was advised of the change of ownership. In addition, Mr. Gore continued to work at the pharmacy and continued to write all checks for the pharmacy. Judge Tenney concluded that there was no true sale. Mr. Gore also testified that the pharmacy had ceased operation in March 1994 and that he had transferred all controlled substances for destruction. The administrative law judge found no preponderating evidence to support a finding that the pharmacy is no longer in operation.

Under 21 U.S.C. 824(a)(4), and pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors shall be considered:

- (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
 - (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
 - (3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
 - (4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
 - (5) Such other conduct which may threaten the public health and safety."
- It is well established that these factors are to be considered in the disjunctive, i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. *Henry J. Schwarz, Jr., M.D.*, 54 16422 (1989).

Of the stated factors, the administrative law judge found that factors (2), (3), (4), and (5) were relevant. As to factor (2), Respondent admitted to dispensing Ativan without a prescription; as to factor (3) Mr. Gore was convicted under New Jersey State law of a single felony of unlawfully distributing a controlled dangerous substance; as to factor (4), Respondent dispensed controlled substances without a valid prescription in violation of the Federal Controlled Substances Act and New Jersey State law; and as to factor (5), the administrative law judge found that Respondent's conduct at Family Pharmacy in New Jersey, the action of the New Jersey State Board of Pharmacy taken against Mr. Gore, and his subsequent conviction all were found to threaten the public health and safety.

The administrative law judge noted that Respondent's major defense was that he was no longer associated with

All Drugs Pharmacy, Inc. However, the administrative law judge determined that the evidence as a whole does not support that the transfer was an arms-length transaction. Judge Tenney concluded that the continued registration of All Drugs Pharmacy, Inc. would not be consistent with the public interest and that its registration should be revoked.

The Deputy Administrator adopts the findings of fact, conclusions of law, and recommended ruling of the administrative law judge in its entirety. Based on the foregoing, the Deputy Administrator concludes that Respondent's continued registration would not be in the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BA2097562, issued to All Drugs Pharmacy, Inc., be and it hereby is, revoked; and that any pending applications of Nasir Gore, be, and they hereby are, denied. This order is effective December 27, 1994.

Dated: November 17, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94-28994 Filed 11-23-94; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal

statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Act," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue, NW., Room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State:

Volume I

Maine

ME940039 (Nov. 25, 1994)

Volume VI

Arizona

AZ940018 (Nov. 25, 1994)

AZ940019 (Nov. 25, 1994)

AZ940020 (Nov. 25, 1994)

Modification to General Wage Determinations Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut

CT940008 (Feb. 11, 1994)

Maine

ME940013 (Feb. 11, 1994)

ME940018 (Feb. 11, 1994)

ME940025 (Feb. 11, 1994)

Massachusetts

MA940016 (Feb. 11, 1994)

New Hampshire

NH940009 (Feb. 11, 1994)

NH940014 (Feb. 11, 1994)

NH940025 (Feb. 11, 1994)

New York

NY940002 (Feb. 11, 1994)

NY940003 (Feb. 11, 1994)

NY940004 (Feb. 11, 1994)

NY940005 (Feb. 11, 1994)

NY940009 (Feb. 11, 1994)

NY940016 (Feb. 11, 1994)

NY940017 (Feb. 11, 1994)

NY940018 (Feb. 11, 1994)

NY940019 (Feb. 11, 1994)

NY940025 (Feb. 11, 1994)

NY940034 (Feb. 11, 1994)

NY940036 (Feb. 11, 1994)

NY940039 (Feb. 11, 1994)

NY940041 (Feb. 11, 1994)

NY940043 (Feb. 11, 1994)

NY940045 (Feb. 11, 1994)

NY940046 (Feb. 11, 1994)

NY940047 (Feb. 11, 1994)

NY940048 (Feb. 11, 1994)

Rhode Island

RI940006 (Feb. 11, 1994)

Volume II

Delaware

DE940008 (Feb. 11, 1994)

Maryland

MD940010 (Feb. 11, 1994)
 MD940025 (Feb. 11, 1994)
 MD940026 (Feb. 11, 1994)
 MD940028 (Feb. 11, 1994)
 MD940029 (Feb. 11, 1994)
 MD940045 (Feb. 11, 1994)

Pennsylvania

PA940050 (Feb. 11, 1994)

Virginia

VA940065 (Feb. 11, 1994)

West Virginia

WV940001 (Feb. 11, 1994)

WV940002 (Feb. 11, 1994)

WV940003 (Feb. 11, 1994)

Volume III

Georgia

GA940031 (Feb. 11, 1994)

Kentucky

KY940035 (Feb. 11, 1994)

South Carolina

SC940023 (Feb. 11, 1994)

Texas

TX940016 (Feb. 11, 1994)

Volume IV

Illinois

IL940018 (Feb. 11, 1994)

Indiana

IN940003 (Feb. 11, 1994)

IN940006 (Feb. 11, 1994)

IN940017 (Feb. 11, 1994)

IN940018 (Feb. 11, 1994)

Volume V

Arkansas

AR940001 (Feb. 11, 1994)

Kansas

KS940004 (Feb. 11, 1994)

KS940007 (Feb. 11, 1994)

KS940009 (Feb. 11, 1994)

KS940013 (Feb. 11, 1994)

KS940021 (Feb. 11, 1994)

KS940023 (Feb. 11, 1994)

KS940025 (Feb. 11, 1994)

KS940026 (Feb. 11, 1994)

Missouri

MO940002 (Feb. 11, 1994)

Nebraska

NE940001 (Feb. 11, 1994)

NE940003 (Feb. 11, 1994)

NE940010 (Feb. 11, 1994)

NE940011 (Feb. 11, 1994)

NE940058 (Feb. 11, 1994)

Oklahoma

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Arizona

AZ940004 (Feb. 11, 1994)

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which included all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 18th day of November 1994.

Alan L. Moss,

Director, Division of Wage Determination.

[FR Doc. 94-28995 Filed 11-23-94; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Job Training Partnership Act: Indian and Native American Employment and Training Programs; List of Grantees Receiving Waivers and Tentative Waivers of Competition for Program Years 1995-96

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: List of current JTPA section 401 grantees given waivers and tentative waivers of competition for the Program Year (PY) 1995-96 designation period.

SUMMARY: Pursuant to the instructions and procedures published in the Federal Register notice of October 3, 1994 (59 FR 50001), the Department of Labor hereby publishes a list of those current JTPA section 401 grantees applying for and receiving waivers and tentative waivers of competition for Program Years 1995-96, pursuant to section 401(l) of the Job Training Partnership Act, as amended.

DATES: Final Notices of Intent must be postmarked no later than January 1, 1995.

ADDRESSES: Send an original and two copies of the Final Notices of Intent to Mr. Thomas Dowd, Chief, Division of Indian and Native American Programs, ATTN: Designation Desk, U.S. Department of Labor, Room N-4641 FPB, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: Grantees who receive waivers must submit a Final Notice of Intent in accordance with the instructions as referenced above to be designated as a JTPA section 401 grantee for the PY 1995-96 Designation Period. Grantees appearing on the list of those receiving a "tentative waiver" must resolve outstanding problems or issues prior to receiving a full waiver. Any grantees receiving tentative waivers have ten (10) calendar days from the date of this publication to resolve said issues or they shall not receive a waiver of competition for the PY 1995-96 Designation Period.

Indian and Native American Programs JTPA, Section 401, Grantees Waivers Granted for Program Years 1995/1996

Alabama

Intertribal Council of Alabama
 Poarch Band of Creek Indians

Alaska

Bristol Bay Native Association
 Central Council of Tlingit and Haida
 Indian Tribes of Alaska
 Cook Inlet Tribal Council, Inc.
 Kenaitze Indian Tribe
 Kodiak Area Native Association
 Maniilaq Manpower, Inc.
 Metlakatla Indian Community
 Tanana Chiefs Conference, Inc.

Arizona

Affiliation of Arizona Indian Centers,
 Inc.
 American Indian Association of Tucson
 Colorado River Indian Tribes
 Gila River Indian Community
 Native Americans for Community
 Action, Inc.
 The Navajo Nation
 Pascua Yaqui Tribe
 Salt River/Pima-Maricopa Indian
 Community
 San Carlos Apache Tribe

Arkansas

American Indian Center of Arkansas,
 Inc.

California

American Indian Center of Santa Clara
 Valley, Inc.
 California Indian Manpower
 Consortium

Candelaria American Indian Council
 Indian Human Resources Center
 Southern California Indian Center, Inc.
 Tule River Tribe
 United Indian Nations, Inc.

Colorado

Denver Indian Center, Inc.
 Southern Ute Indian Tribe

Delaware

Nanticoke Indian Association, Inc.

Florida

Florida Governor's Council on Indian
 Affairs
 Seminole Tribe of Florida

Hawaii

Alu Like, Inc.

Idaho

Shoshone-Bannock Tribes

Kansas

Mid-American All Indian Center, Inc.
 United Tribes of Kansas and Southeast
 Nebraska, Inc.

Louisiana

Inter-Tribal Council of Louisiana, Inc.

Maine

Central Maine Indian Association, Inc.
 Tribal Governors, Inc.

Maryland

Baltimore American Indian Center, Inc.

Massachusetts

Mashpee-Wampanoag Indian Tribe
 Council, Inc.

Michigan

Michigan Indian Employment and
 Training Services, Inc.
 North American Indian Association of
 Detroit, Inc.
 Sault Ste. Marie Tribe of Chippewa
 Indians
 South Eastern Michigan Indians, Inc.

Minnesota

American Indian Opportunities
 Industrialization Center
 Bois Forte Reservation Tribal Council
 Leech Lake Reservation Tribal Council
 Minneapolis American Indian Center
 Red Lake Tribal Council

Missouri

American Indian Council, Inc.

Montana

Assiniboine & Sioux Tribes
 Blackfeet Tribal Business Council
 B.C. of the Chippewa Cree Tribe
 Confederated Salish & Kootenai Tribes
 Crow Tribe of Indians
 Fort Belknap Indian Community

Montana United Indian Association
 Northern Cheyenne Tribe

Nebraska

Indian Center, Inc.

Nevada

Las Vegas Indian Center, Inc.

New Jersey

Powhatan Renape Nation

New Mexico

Alamo Navajo School Board, Inc.
 All Indian Pueblo Council, Inc.
 Eight Northern Indian Pueblos Council
 Five Sandoval Indian Pueblos, Inc.
 Jicarilla Apache Tribe
 Mescalero Apache Tribe
 Pueblo of Acoma
 Pueblo of Laguna
 Pueblo of Taos
 Pueblo of Zuni
 Santa Clara Indian Pueblo

New York

Native American Cultural Center, Inc.
 Native American Community Services
 of Erie & Niagara Counties
 St. Regis Mohawk Tribe
 Seneca Nation of Indians

North Carolina

Eastern Band of Cherokee Indians
 Guilford Native American Association
 Haliwa-Saponi Tribe, Inc.
 Lumbee Regional Development
 Association, Inc.

North Carolina Commission of Indian
 Affairs

North Dakota

Devils Lake Sioux Tribe
 Turtle Mountain Band of Chippewa
 Indians
 United Tribes Technical College

Ohio

North American Indian Cultural Center,
 Inc.

Oklahoma

Caddo Indian Tribe of Oklahoma
 Central Tribes of the Shawnee Area, Inc.
 Cherokee Nation of Oklahoma
 Cheyenne-Arapaho Tribes of Oklahoma
 Chickasaw Nation
 Choctaw Nation of Oklahoma
 Citizens Band of Potawatomi Indians
 Creek Nation of Oklahoma
 Four Tribes Consortium of Oklahoma
 Inter-Tribal Council of NE. Oklahoma
 Kiowa Tribe of Oklahoma
 Oklahoma Tribal Assistance Program,
 Inc.
 Osage Tribe of Oklahoma
 Otoe-Missouria Indian Tribe of
 Oklahoma
 Pawnee Tribe of Oklahoma
 Ponca Tribe of Oklahoma

Seminole Nation of Oklahoma
 Tonkawa Tribe of Oklahoma
 United Urban Indian Council, Inc.

Oregon

Confederated Tribes of Siletz Indians
 Confederated Tribes of the Umatilla
 Indian Reservation
 Organization of Forgotten Americans,
 Inc.

Pennsylvania

Council of Three Rivers

Rhode Island

Rhode Island Indian Council, Inc.

South Dakota

Cheyenne River Sioux Tribe
 Sisseton-Wahpeton Sioux Tribe
 United Sioux Tribes Development
 Corporation

Tennessee

Native American Indian Association

Texas

Alabama-Coushatta Indian Tribal
 Council
 Dallas Inter-Tribal Center
 Ysleta Del Sur Pueblo

Utah

Indian Center Employment Services,
 Inc.
 Ute Indian Tribe

Vermont

Abenaki Self-Help Association/New
 Hampshire Indian Council

Virginia

Mattaponi-Pamunkey-Monacan, Inc.

Washington

American Indian Community Center
 Colville Confederated Tribes
 Lummi Indian Business Council
 Seattle Indian Center, Inc.
 Western Washington Indian
 Employment and Training Program

Wisconsin

Lac Courte Oreilles Tribal Governing
 Board
 Lac Du Flambeau Band of Lake Superior
 Chippewa Indians
 Menominee Indian Tribe of Wisconsin
 Milwaukee Area American Indian
 Manpower Council, Inc.
 Oneida Tribe of Indians of Wisconsin
 Wisconsin Indian Consortium

**Indian and Native American Programs
 JTPA, Section 401, Grantees Tentative
 Waivers Granted for Program Years
 1995/1996**

Alaska

Aleutian/Pribilof Islands Association,
 Inc.

California

Northern California Indian Development Council, Inc.

Mississippi

Mississippi Band of Choctaw Indians

New Mexico

Santo Domingo Tribe

North Carolina

Metrolina Native American Association

Oklahoma

Comanche Indian Tribe of Oklahoma

South Carolina

Catawba Indian Nation

Washington

Puyallup Tribe

Note: Current JTPA section 401 grantees who applied for waivers and who do not appear on either of the above two lists were denied waivers either because their performance was not satisfactory or because they have not been section 401 grantees for two full program years. Current grantees who did not submit Advance Notices of Intent were not considered for waivers.

Signed at Washington, DC, this 17 day of November 1994.

Thomas M. Dowd,

Chief, Division of Indian and Native American Programs.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

James C. Deluca,

Grant Officer, Office of Grants and Contracts Management, Division of Acquisition and Assistance.

[FR Doc. 94-29142 Filed 11-23-94; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94-097]

NASA Advisory Council; Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Science and Applications Advisory Subcommittee.

DATES: December 13, 1994, 8:30 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC-6A, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Roger K. Crouch, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-0818.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Subcommittee Organization, Roles, and Responsibility
- Microgravity Science and Applications Division (MSAD) Science Plan
- MSAD Participation in NASA/Mir Program
- MSAD Participation in International Space Station Planning
- Status and Future Plans of MSAD Programs

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 17, 1994.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 94-28982 Filed 11-23-94; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**Meeting of Humanities Panel**

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

SUPPLEMENTARY INFORMATION: The proposed matters are for the purpose of

panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. **Date:** December 1-2, 1994

Time: 9:00 a.m. to 5:30 p.m.

Room: 430

Program: This meeting will review applications submitted to Special Projects for the Special Competition deadline of October 1994, submitted to the Division of Public Programs, for projects beginning after January, 1995.

2. **Date:** December 5, 1994

Time: 8:30 a.m. to 5:00 p.m.

Room: 315

Program: This meeting will review applications for projects in Interpretive Research Archaeology, submitted to the Division of Research Programs, for projects beginning after April 1, 1995.

3. **Date:** December 8, 1994

Time: 8:30 a.m. to 5:30 p.m.

Room: 315

Program: This meeting will review applications for projects in Interpretive Research: Archaeology, submitted to the Division of Research Programs, for projects beginning after April 1, 1995.

4. **Date:** December 12, 1994

Time: 8:30 a.m. to 5:30 p.m.

Room: 315

Program: This meeting will review applications for projects in Interpretive Research: Archaeology, submitted to the Division of Research Programs, for projects beginning after April, 1995.

5. **Date:** December 19, 1994

Time: 8:30 a.m. to 5:30 p.m.

Room: 315

Program: This meeting will review applications for projects in Interpretive Research: Conferences, submitted to the Division of Research Programs, for projects beginning after April 1, 1995.

David Fisher,

Advisory Committee Management Officer.

[FR Doc. 94-29002 Filed 11-23-94; 8:45 am]

BILLING CODE 7530-01-M

Meeting

The 30th meeting of the President's Committee on the Arts and the Humanities will take place on Friday, December 2, 1994 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, in Washington, DC. The plenary meeting will be convened at 2 p.m. in room M-09.

This meeting will feature a discussion of the Committee's plans to develop new initiatives on philanthropic support for the arts and the humanities, programs to reach at-risk youth and other children, and media projects designed to further these goals. A key item for discussion will be President Clinton's request for a report on American culture. This report will be submitted to the President in 1995. Subcommittees to discuss specific topics to be addressed by the Committee during 1995, will meet in the morning beginning at 9 a.m. in locations to be determined; for information, please contact the President's Committee staff at the address or phone number below.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowment's and the IMS on measures to encourage private sector support for the nation's cultural institutions and to promote public understanding of the arts and the humanities.

For further information, please call the President's Committee at (202) 682-5409 or write to the Committee at 1100 Pennsylvania Avenue, NW., Suite 526; Washington, DC 20506.

Dated: November 18, 1994.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations.

[FR Doc. 94-28989 Filed 11-23-94; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION**Special Emphasis Panel in Information, Robotics and Intelligent Systems; Meeting**

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Information, Robotics and Intelligent Systems.

Date and Time: December 14-15, 1994, 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Blvd., room 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Howard Moraff, Acting Deputy Division Director, Robotics and

Intelligence, Room 1115, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Database and Expert Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29074 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

Division of Computer and Computation Research Special Emphasis Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Division of Computer & Computation Research #1192.

Date: December 12, 1994.

Time: 8:30 a.m.-5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Agenda: Review and Evaluate Faculty Early Career Development (CAREER) Program Proposals.

Contact: Dr. Gerald L. Engel, Program Director, Special Projects, Computer and Computation Research National Science Foundation, Room 1145, Arlington, VA 22230, (703) 306-1910.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29075 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Polar Programs. (#1209).

Date and Time: December 15-16, 1994; 8:30 a.m.-5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA; Room 380.

Type of Meeting: Closed.

Contact Person: Dr. Julie Palais, Program Manager, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Arctic Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29076 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Research, Evaluation and Dissemination; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Dissemination #1210.

Date and Time: December 14, 1994; 8:00 a.m. to 5:00 p.m. December 15, 1994; 8:00 a.m. to 5:00 p.m.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ms. Barbara Lovitts, Assistant Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306-1652.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Research in Teaching and Learning Program.

Reason for Closing: Because the proposals reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29077 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Information, Robotics and Intelligent Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information, Robotics and Intelligent Systems.

Date and Time: December 15-16, 1994.

8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Blvd., rooms 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Howard Moraff, Acting Deputy Division Director, Robotics and Intelligence Room 1115, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Knowledge Models & Cognitive Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29078 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Geosciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended) the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (1756).

Date and Time: December 12, 1994; 8:00 a.m.—5:00 p.m.

Place: Room #770, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Judith L. Hannah, Program Director, Education and Human Resources Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA, 22230. Telephone: (703) 306-1557.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate REU-Site proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 21, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94-29079 Filed 11-23-94; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of Meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given that the forty-first meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meeting is open to the public.

DATES: December 14, 1994, at 10:00 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street NW., Room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street NW., Room 6H31, Washington, DC 20515-0001. Telephone number: (202) 606-2838.

For the President's Pay Agent:

Lorraine A. Green,

Deputy Director.

[FR Doc. 94-28967 Filed 11-23-94; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-20711; 811-5650]

Ostrander Fixed Income Trust; Notice of Application

November 17, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Ostrander Fixed Income Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 24, 1990, and amended on September 2, 1994. Applicant agrees to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 12, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 10 Winthrop Square, Fifth Floor, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Law Clerk, at (202) 942-0573, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representation

1. Applicant is an open-end management investment company organized as a Massachusetts business trust, and its sole portfolio series is

Ostrander High Income Reserve Fund (the "Fund"). On August 31, 1988, applicant registered under the Act as an investment company, and applicant filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on October 27, 1988, and the initial public offering commenced on the same day.

2. On February 5, 1990, the Fund's board of trustees adopted a Plan of Liquidation and Dissolution (the "Plan") for the Fund. The Plan provided for (i) the sale of applicant's assets and subsequent distribution of the proceeds to its shareholders; (ii) the payment of or provision for applicant's liabilities and obligations; (iii) the cessation of applicant's business as an investment company under the Act; and (iv) applicant's dissolution. Applicant's shareholders approved the Plan on March 30, 1990.

3. On June 25, 1990, the Ostrander High Income Reserve Fund Shareholders' Liquidating Trust—Certificates (the "Certificate Reserve Trust") was formed. The trustees of the Certificate Reserve Trust were Patricia Ostrander, Joseph L. Bower, Richard E. Floor, Bernard J. Korman, Franco Modigliani, and Ernest E. Monrad. The Certificate Reserve Trust was formed pursuant to the Plan, and its primary purpose was to hold assets transferred to it by the Fund on behalf of shareholders of the Fund who, as of June 25, 1990, had neither surrendered their certificates representing shares in the Fund, nor provided the Trustees with an indemnity bond, in the event of loss or destruction of a certificate. The Trust would hold these assets until the shareholders furnished the certificates or an indemnity bond in accordance with the Plan.

4. On June 26, 1990, the Ostrander High Income Reserve Fund Shareholders' Liquidating Trust (the "Liquidating Trust") was formed. The trustees were the same as those for the Certificate Reserve Trust. The Liquidating Trust was formed pursuant to the Plan, and its purpose was to satisfy contingent liabilities of the Fund and the applicant, and the balance would be distributed to shareholders.

5. On or about June 29, 1990, the Fund distributed an aggregate of \$1,811,899.29, representing substantially all of its assets. The Fund distributed the money as follows: \$724,645.42 to the Certificate Reserve Trust, \$200,000 to the Liquidating Trust, and the remainder directly to the Fund's shareholders.

6. On or prior to December 31, 1992, the Certificate Reserve Trust terminated

upon the distribution to the last of the shareholders who had missing certificates.

7. In May 1993, Ms. Ostrander reimbursed \$17,182 to the Liquidating Trust in connection with an agreement reached with the SEC to reimburse monies to shareholders of the Fund who may have purchased shares of the Fund at incorrect prices. Ms. Ostrander also made direct restitution to certain identified shareholders of the Fund in the amount of \$21,103. Applicant is not aware of any other amounts owed by Ms. Ostrander to applicant or the Fund.

8. On May 26, 1993, applicant was named as a defendant in *Continental Airlines, Inc. v. Ostrander High Income Reserve Fund, et. al*, Civil Action No. 93-3164. Continental alleged that applicant had violated Massachusetts law in connection with Continental's investments in the Fund. The parties settled the action pursuant to a release dated April 18, 1994.

9. All of the assets of the Liquidating Trust have been used to satisfy contingent liabilities of the Fund and the applicant or distributed to or for the benefit of the Fund's shareholders. On August 5, 1994 the Liquidating Trust made a final distribution of \$70,462.17 to the Fund's shareholders.

10. Applicant's shareholders have received the aggregate net asset value of their respective interests in applicant. Applicant has no remaining shareholders.

11. Neither applicant, the Liquidating Trust nor the Certificate Reserve Trust has any assets remaining. In addition, applicant is not aware of any debts or other liabilities that remain outstanding against applicant.

12. Applicant will terminate its existence with Massachusetts authorities after receiving this order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29007 Filed 11-23-94; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-20716; No. 811-3154]

Northwestern Mutual Balanced Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Balanced Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 1, 1994. An amendment to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On March 18, 1981, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering \$25 million of common stock, all of one class (File No. 2-71304). The registration statement became effective on December 14, 1981, the date the public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan of reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund"), a registered, open-end management

investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"), Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the Balanced Portfolio ("Portfolio"), a corresponding portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. On March 30, 1994, proxy materials concerning the Plan were distributed to certain Northwestern Life's variable annuity contract owners and payees. At Applicant's shareholders' meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its contract owners and payees, as required by the provisions of the contracts. Of its total 1,257,811,049.68 shares of stock, representing shares outstanding as of the record date of January 31, 1994 entitled to vote, Northwestern Life voted 1,178,519,938.55 shares, or 93.8%, in favor of the Plan, and 24,433,212.51 shares, or 1.9%, against the Plan. Northwestern Life abstained from voting 54,857,898.62 shares, or 4.3%.

5. On May 2, 1994, Applicant transferred substantially all of its assets, consisting of 1,250,574,720 shares of common stock, with a net asset value per share of \$1.36, for an aggregate value of \$1,705,465,964, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 1,330,564,679 shares of the Portfolio, with a total value of \$1,705,465,964. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business on the New York Stock Exchange on May 2, 1994.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$407,185, and consisted primarily of printing and mailing costs and filing

fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94-29062 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20715; No. 811-3152]

Northwestern Mutual Money Market Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Money Market Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 1, 1994. Amendment No. 1 to the amendment was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a

copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certification of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On March 18, 1981, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering \$25 million of common stock, all of one class (File No. 2-71302). The registration statement became effective on December 17, 1981, the date the public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan or reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund"), a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"). Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the Money Market Portfolio ("Portfolio"), a corresponding

¹ By order dated May 3, 1994, exemptive relief was granted by the Commission under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

² The difference between the total 1,257,811,049.68 shares voted on April 28, 1993, and the 1,250,574,720 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

¹ By order dated May 3, 1994, exemptive relief was granted by the Commission under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. At Applicant's shareholders' meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its contract owners and payees, as required by the provisions of the contracts. Of its total 77,074,254.45 shares of stock, representing shares outstanding on the record date of January 31, 1994 entitled to vote, Northwestern Life voted 73,220,376.13 shares, or 95.1%, in favor of the Plan, and 2,121,628.21 shares, or 2.7%, against the Plan. Northwestern Life abstained from voting 1,732,250.11 shares, or 2.2%.

5. On May 2, 1994, Applicant transferred substantially all of its assets, consisting of 91,309,664 shares of common stock, with a net asset value per share of \$1.00, for an aggregate value of \$91,309,664, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 91,309,664 shares of the Portfolio, with a total value of \$91,309,664. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business of the New York Stock Exchange on May 2, 1994.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$18,298, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar

documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29061 Filed 11-23-94; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-20717; No. 811-1667]

**Northwestern Mutual Capital
Appreciation Stock Fund, Inc:**

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Capital Appreciation Stock Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 1, 1994. Amendment No. 1 to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On June 6, 1968, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering \$25 million of common stock, all of one class (File No. 2-29239). The registration statement became effective on April 22, 1969, the date the public offering commenced.

3. On November 5, 1992, the Applicant's Board of Directors unanimously approved an agreement and plan of reorganization ("Plan") between Applicant and Northwestern Mutual Index 500 Stock Fund, Inc. ("Index Fund"), a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"), Applicant's sole shareholder, on November 5, 1992. The Plan provides for Applicant to exchange all of its assets for shares of the Index Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two funds with identical investment objectives and policies.

4. At Applicant's shareholders meeting on April 28, 1993, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its variable annuity contract owners and payees, as required by the provisions of the contracts. Of the total 108,774,561.12 shares of stock, representing shares outstanding on the record date of January 29, 1993 entitled to vote, Northwestern Life voted 105,615,661.11 shares, or 97.1%, in favor of the Plan, and 1,647,162.77 shares, or 1.5%, against the Plan. Northwestern Life abstained from voting 1,511,737.24 shares, or 1.4%.

5. On April 30, 1993, Applicant transferred its assets, consisting of 108,968,687 shares of common stock, with a net asset value per share of

² The difference between the total 77,074,254.45 shares voted on April 27, 1994, and the 1,309,664 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

¹ By Order dated March 25, 1993, exemptive relief was granted by the Commission under Sections 6(c) and 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, permitting Applicant to exchange its assets for shares of the Index Fund. (Rel. No. IC-19356)

\$1.42,² for an aggregate value of \$154,337,887, to the Fund. In exchange for its assets, Applicant received and distributed to its shareholder 114,296,045 shares of the Fund, with a total value of \$154,337,887. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Fund were calculated as of the close of business on the New York Stock Exchange on April 30, 1993.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$148,327, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29060 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20718; No. 811-6169]

Northwestern Mutual Index 500 Stock Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

² The difference between the total of 108,774,561.12 shares voted on April 26, 1993, and the 108,968,687 shares outstanding on April 30, 1993, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Index 500 Stock Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATES: The application was filed on September 1, 1994. An Amendment to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end, non-diversified management investment company.

2. On September 7, 1990, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering an indefinite amount of common stock, all of one class (File No. 33-36568). The registration statement became effective on November 30, 1990, the date the initial public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan of reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund"), a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"), Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the Index 500 Stock Portfolio ("Portfolio"), a corresponding portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. At Applicant's shareholders' meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its variable annuity contract owners and payees, as required by the provisions of the contracts. Of the total 194,114,853.91 shares of stock, representing shares outstanding on the record date of January 31, 1994 entitled to vote, Northwestern Life voted 183,728,942.14 shares, or 94.7%, in favor of the Plan, and 4,316,395.34 shares, or 2.2%, against the Plan. Northwestern Life abstained from voting 6,069,516.43 shares, or 3.1%.

5. On May 2, 1994, Applicant transferred substantially all of its assets, consisting of 199,137,846 shares of common stock, with a net asset value per share of \$1.39, for an aggregate value of \$277,484,077, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 220,157,952 shares of the Portfolio, with a total value of \$227,484,077. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business on the New York Stock Exchange on May 2, 1994.

¹ By order dated May 3, 1994, exemptive relief was granted by the Commission under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

² The difference between the total 194,114,853.91 shares voted on April 27, 1993, and the 199,137,846 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$63,695, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it proposed to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29059 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20714; No. 811-7468]

Northwestern Mutual International Equity Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual International Equity Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 1, 1994. An Amendment to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be

issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On February 5, 1993, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering an indefinite amount of common stock, all of one class (File No. 33-57964). The registration statement became effective on April 30, 1993, the date the public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan or reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund"), a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"),

¹ By order dated May 3, 1994, exemptive relief was granted by the Commission under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the International Equity Portfolio ("Portfolio") a corresponding portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. At Applicant's shareholders meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its variable annuity contract owners and payees, as required by the provisions of the contracts. Of the total 108,966,135.32 shares of stock, representing shares outstanding on the record date of January 31, 1994 entitled to vote, Northwestern Life voted 104,891,691.83 shares, or 97%, in favor of the Plan, and 1,674,835.98 shares, or 1.2%, against the Plan, Northwestern Life abstained from voting 2,399,607.51 shares, or 1.8%.

5. On May 2, 1994, Applicant transferred its assets, consisting of 193,618,391 shares of common stock, with a net asset value per share of \$1.22, for an aggregate value of \$236,437,711, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 193,618,391 shares of the Portfolio, with a total value of \$236,437,711. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business on the New York Stock Exchange on May 2, 1994.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$34,743, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

² The difference between the total 108,966,135.32 shares voted on April 27, 1994, and the 193,618,391 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29058 Filed 11-23-94; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-20712; No. 811-2585]

Northwestern Mutual Select Bond Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").
ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Select Bond Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 1, 1994. An Amendment to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street,

NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On July 29, 1975, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering \$25 million of common stock, all of one class (File No. 2-54290). The registration statement became effective on November 24, 1975, the date the public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan or reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund"), a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"), Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the Select Bond Portfolio ("Portfolio"), a corresponding portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. At Applicant's shareholders' meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its contract owners and payees, as required by the provisions of the contracts. Of the total 128,055,955.92 shares of stock, representing shares outstanding on the record date of January 31, 1994 entitled

¹ By order dated May 3, 1994, the Commission granted exemptive relief under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

to vote, Northwestern Life voted 119,744,962.78 shares, or 93.7%, in favor of the Plan, and 2,311,747.54 shares, or 2.1%, against the Plan. Northwestern Life abstained from voting 5,499,245.60 shares, or 4.2%.

5. On May 2, 1994, Applicant transferred substantially all of its assets, consisting of 127,156,919 shares of common stock, with a net asset value per share of \$1.29 for an aggregate value of \$163,901,422, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 148,196,445 shares of the Portfolio, with a total value of \$163,901,422. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business on the New York Stock Exchange on May 2, 1994.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$39,375, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29057 Filed 11-23-94; 8:45 am]
BILLING CODE 8010-01-M

² The difference between the total 128,055,955.92 shares voted on April 27, 1993, and the 127,156,919 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

[Rel. No. IC-20713; No. 811-6168]

Northwestern Mutual Aggressive Growth Stock Fund, Inc.

November 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Northwestern Mutual Aggressive Growth Stock Fund, Inc.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATES: The application was filed on September 1, 1994. An Amendment to the application was filed on November 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1994, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service.

Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is registered under the 1940 Act as an open-end diversified management investment company.

2. On September 7, 1990, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a

registration statement under the Securities Act of 1933 and Section 8(b) of the 1940 Act registering an indefinite amount of common stock, all of one class (File No. 33-36567). The registration statement became effective on November 30, 1990, the date the public offering commenced.

3. On November 4, 1993, Applicant's Board of Directors unanimously approved an agreement and plan or reorganization ("Plan") between Applicant and Northwestern Mutual Series Fund, Inc. ("Series Fund") a registered, open-end management investment company.¹ The Plan was approved by the Trustees of Northwestern Mutual Life Insurance Company ("Northwestern Life"), Applicant's sole shareholder, on September 22, 1993. The Plan provides for Applicant to exchange all of its assets for shares of the Aggressive Growth Portfolio ("Portfolio"), a corresponding portfolio of the Series Fund. Applicant states that the primary purpose of the Plan was to eliminate the inefficiency of operating two portfolios with identical investment objectives and policies.

4. At Applicant's shareholders' meeting on April 27, 1994, Northwestern Life voted its shares of Applicant in accordance with the instructions it received from its contract owners and payees, as required by the provisions of the contracts. Of its total 106,959,888.56 shares of stock, representing shares outstanding as of the record date of January 31, 1994 entitled to vote, Northwestern Life voted 99,536,598.84 shares, or 93.2%, in favor of the Plan, and 3,419,129.58 shares, or 3.1%, against the Plan. Northwestern Life abstained from voting 4,004,160.14 shares, or 3.7%.

5. On May 2, 1994, Applicant transferred substantially all of its assets, consisting of 128,778,039 shares of common stock, with a net asset value per share of \$1.91, for an aggregate value of \$245,687,070, to the Portfolio.² In exchange for its assets, Applicant received and distributed to its shareholder 128,778,039 shares of the

¹ By order dated May 3, 1994, exemptive relief was granted by the Commission under Section 17(b) from the provisions of Sections 17(a)(1) and 17(a)(2) of the 1940 Act, and under Section 6(c) from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder, permitting Applicant to exchange its assets for shares of the Portfolio of equivalent value (Rel. No. IC-20273).

² The difference between the total 106,959,888.56 shares voted on April 27, 1993, and the 128,778,039 shares outstanding on May 2, 1994, the date immediately preceding the liquidation and merger of Applicant, is a result of intervening issuance and redemption of Applicant's shares.

Portfolio, with a total value of \$245,687,070. The exchange resulted in the complete liquidation of Applicant. The value of Applicant's assets and the value of the assets and shares of the Portfolio were calculated as of the close of business on the New York Stock Exchange on May 2, 1994.

6. Northwestern Life paid all expenses incurred in connection with the Plan. These expenses totaled approximately \$45,397, and consisted primarily of printing and mailing costs and filing fees. No brokerage commissions were paid.

7. Applicant has retained no assets and has no security holders. Applicant does not have any debts or other liabilities which remain outstanding and is not a party to any litigation or administrative proceeding.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. Applicant intends to file, after receipt of the relief requested, a certificate of dissolution or similar documents in accordance with state law.

10. Applicant states that it is current with all of its filings under the 1940 Act, including all Form N-SAR filings for each period for which such filing was or is required.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94-29056 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-34981; File No. SR-PSE-93-36]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Adopt Functional Separation Procedures for Specialists and Affiliated Firms

November 16, 1994.

I. Introduction

On December 29, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt a set of procedures addressing specialist member organizations affiliated with an upstairs firm. On May 25, 1994, the Exchange submitted Amendment No. 1 to the proposed rule change.³

The proposed rule change was published for comment in Securities Exchange Act Release No. 33751 (March 10, 1993), 59 FR 12631 (March 17, 1993). No comments were received on the proposal.

II. Description

The proposed rule change consists of Exchange guidelines that outline the minimum requirements that an Exchange specialist firm affiliated with an upstairs firm⁴ will be expected to demonstrate to provide for a functional separation ("Information Barrier")⁵ of its specialist activity from its retail and proprietary business.

In addition to requiring affiliated upstairs firms to establish a Information Barrier, the proposal also requires that they establish, maintain and enforce written procedures reasonably designed to prevent the misuse of material, nonpublic information. Finally the proposal requires an affiliated upstairs firm to obtain prior written approval of the Exchange that it has complied with the requirements to establish functional separation as appropriate to its operation and that it has established proper compliance and audit procedures to ensure the maintenance of the functional separation.⁶

The proposal identifies certain minimum procedural and maintenance

requirements. First the specialist's book must be kept confidential. Second, the affiliated upstairs firm can have no influence on specific specialist trading decisions. Third, material, non-public corporate or market information obtained by the affiliated upstairs firm from the issuer may not be made available to the specialist. Fourth, clearing and margin financing information regarding the specialist may be routed only to employees engaged in such work and managerial employees engaged in overseeing operations of the affiliated upstairs firm and specialist entities. Fifth, the Exchange may from time to time request that specialists file information and reports in a specialty security.

In addition, the proposal places limitations on the information which may pass between a broker associated with an affiliated upstairs firm and the specialist, such that they are limited to that exchange of information which would occur in the normal course of business with a comparable unaffiliated individual. Thus, the broker may make available to the specialist only the market information he would make available to an unaffiliated specialist in the normal course of his trading and "market probing" activity. The specialist may divulge to the broker only the information about market conditions in specialty stocks that he would make available in the normal course of his specialist duties to any other broker, and in the same manner. The specialist, however, is further restricted in that he may provide market information to the broker only upon request of that broker and not on his own initiative.

The proposal permits an affiliated upstairs firm to popularize⁷ a specialty stock provided it makes adequate disclosure about the existence of possible conflicts of interest.

In addition, the proposal provides specific procedures that will apply if a specialist becomes privy to material non-public information. In such a case, the specialist must promptly inform his firm's compliance officer, or other designated official, of such communication and seek guidance from such officer or official as to what procedures he should subsequently follow. Such officer or official must maintain appropriate records, including the action taken and a summary of the

information received by the specialist. If the specialist is required to give up the "book," then such transfer must be done in a neutral fashion to ensure that the transfer itself does not disclose the information, and the Exchange must be informed.⁸

Finally, with respect to compliance, the Exchange will periodically examine the Information Barrier procedures established hereunder and will conduct surveillance of proprietary trades effected by an affiliated upstairs firm and its affiliated specialist or specialist firm. The Exchange will monitor specifically the trading activities of affiliated upstairs firms and affiliated specialists in the specialist firm's specialty stock in order to monitor the possible trading while in possession of material, non-public information through the periodic review of trade and comparison reports generated by the Exchange.

III. Discussion

The Commission recognizes that significant conflicts of interest can arise between an approved person and the affiliated specialist unit which, if not addressed by appropriate Information Barrier procedures and the monitoring and surveillance of the continuing adequacy of such procedures, could result in potential manipulative market activity and informational advantages benefitting the affiliated upstairs firm, specialist unit, or the customers of either, all in contravention of Section 6(b) of the Act.⁹ The Commission further believes that the procedures the Exchange intends to implement with respect to approving and monitoring the Information Barrier address these concerns, and therefore are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, in that the procedures proposed by the PSE are designed to prevent the misuse of material, non-public information by specialist units affiliated with an affiliated upstairs firm. Further, the Commission believes the proposal is consistent with the Section

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1991).

³ See letter from Michael D. Pierson, Senior Attorney, PSE, to Amy Bilbija, Attorney, Commission, dated May 23, 1994. This amendment, which is available in the Commission's Public Reference Room, codified a provision enabling the Exchange to request information from specialists relating to transactions in a specialty security.

⁴ The Proposal specifies that the functional separation must be established (1) between a specialist firm and any associated approved person; and (2) between a specialist and any associated integrated member organization. The approved person or integrated member organization are collectively referred to as an "affiliated upstairs firm." An "approved person" is defined in PSE Rule 4.1(n) as a party who is not an employee, a member or an allied member of a member firm, and who is a director of a member firm, or who beneficially owns, directly or indirectly, 5% or more of the outstanding equity securities of a member firm, and who has been approved by the Exchange as an approved person.

⁵ Functional separation of specialist activity from its affiliated upstairs firm business is often-times referred to as a "Chinese Wall."

⁶ In addition, a copy of these Chinese Wall procedures, and any amendments thereto, must be filed with the Exchange Financial Compliance Department.

⁷ "Popularizing" generally refers to the practice by specialists, their member organizations and their corporate parents, of making recommendations and providing research coverage regarding their specialty securities. See Securities Exchange Act Release No. 23768 (November 3, 1986), 51 FR 41183 (November 13, 1986) ("NYSE/Amex Order").

⁸ The compliance officer is also required to keep a record of the time the specialist reacquired the book, reflecting acknowledgement by the compliance officer that the reacquisition was appropriate.

⁹ 15 U.S.C. § 78f(b) (1988).

11A(a)(1)(C)(ii) Congressional finding¹⁰ in that it aids in assuring fair competition among brokers and dealers.

The Commission initially addressed the necessity and viability of Information Barriers in approving the amendments to New York Stock Exchange ("NYSE") and American Stock Exchange ("Amex") Rules 98 and 193 respectively, which created the present Information Barrier scheme in effect today on those exchanges.¹¹ At that time, the Commission expressed its belief that it is also desirable for the regional exchanges to consider requiring specialists affiliated with integrated firms to establish an adequate Information Barrier and generally to review the efficacy of their surveillance and compliance procedures regarding those specialists. In this regard, the Commission thus far has approved two filings submitted by regional exchanges to adopt such procedures.¹²

Organizational separation between different departments of a broker-dealer is one of several means of preventing the interdepartmental communication of material, non-public information.¹³ The NYSE/Amex Order noted that, for example, in view of the diverse functions performed by a multi-service firm and the material, non-public information that may be obtained by any one department of the firm, the firm often may be required to restrict access to information to the department receiving it, in order to avoid potential liability under Sections 10(b) and 14(e) of the Act¹⁴ and Rules 10b-5 and 14e-3 thereunder. Moreover, two years after approval of the Amex's and NYSE's Information Barrier procedures, Congress enacted the Insider Trading and Securities Fraud Enforcement Act of 1988 ("ITSFEA"), designed primarily to prevent, deter, and prosecute insider trading.¹⁵ Among other provisions, ITSFEA created a specific requirement for broker-dealers to maintain procedures designed to prevent the

misuse of material, non-public information.¹⁶ In response to the promulgation thereof, many firms redrafted their internal Information Barrier procedures to ensure compliance.¹⁷

The Commission notes that a number of firms with regional specialist operations have established Information Barrier procedures between the specialist and its affiliated firm. Nevertheless, such procedures have not necessarily been adopted by all specialist affiliates, have not been adopted pursuant to any specific regional exchange requirements, and have not been subject to specific exchange surveillance and oversight.

The NYSE/Amex Order, in addressing the need for regional exchanges to participate in the regulation of affiliations between specialist operations and diversified broker-dealer firms, took into account the fact that regional exchanges differ from the primary exchanges in terms of order flow and market information. While noting that overall regional exchange volume is small compared to primary market volume, and regional exchange pricing of orders is generally derived from primary market quotations, the Commission expressed its concern that the diversion by a large retail broker-dealer of all or a significant portion of order flow in specialty stocks to an affiliated regional specialist could raise certain regulatory concerns similar to those raised by such affiliations on the primary exchanges. Moreover, the Commission noted that even if regional exchange specialists continue to set their prices based on primary market quotations, a regional specialist affiliated with an integrated retail firm could obtain significant access to material, non-public information.

The Commission continues to believe that Information Barriers, with effective controls, may be useful in restricting information flow between the various departments of broker-dealers with affiliated specialists. The Commission has monitored the NYSE and Amex Information Barrier rules since their inception, and generally believes they have proven effective in the context of

specialists and affiliated approved persons.

The Commission believes that the PSE proposal effectively addresses the potential for market abuses resulting from the ongoing relationship between specialists and affiliated approved persons. The effectiveness of the procedures set forth in the PSE guidelines is reinforced by the Exchange's existing surveillance of specialists and the marketplace as well as the specialist's highly visible position in the marketplace. These factors, along with the specialist's existing statutory duty to maintain a fair and orderly market, should help to enhance the effectiveness of the proposed Information Barrier.

Finally, the Commission notes that the structural adequacy of the Information Barrier is only one part of evaluating whether the procedures established by the Exchange will detect and deter potential improper activity by either the approved person or the specialist. Appropriate surveillance procedures are critical to ensure that the Information Barrier is maintained. To this end, the Exchange has submitted to the Commission proposed procedures for monitoring the Information Barrier.¹⁸ The Commission also notes that the Exchange has represented that it believes that it has adequate staffing capacity to monitor compliance and conduct independent reviews of member firms.¹⁹

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-PSE-93-36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Jonathan G. Katz,
Secretary.

[FR Doc. 94-29006 Filed 11-23-94; 8:45 am]

BILLING CODE 8010-01-M

¹⁰ 15 U.S.C. § 78k-1(a)(C)(ii) (1988).

¹¹ See NYSE/Amex Order.

¹² See Securities Exchange Act Release Nos. 34076 (May 18, 1994), 59 FR 26822 (May 24, 1994) (approving the Boston Stock Exchange Chinese Wall proposal); and 34449 (July 27, 1994), 59 FR 39611 (August 3, 1994) (approving the Cincinnati Stock Exchange Chinese Wall proposal).

¹³ See e.g., Securities and Exchange Act Release No. 23768, (November 3, 1986) 51 FR 41183 (November 13, 1986), citing SEC Institutional Investor Study, H.R. Doc. No. 9264, 92d Cong., 1st Sess. 2539 (1971). The Study urged financial institutions to "consider the necessity of segregating information flows arising from a business relationship with a company as distinct from information received in an investor or shareholder capacity."

¹⁴ 15 U.S.C. §§ 78j(b), 78n(e) (1982).

¹⁵ Pub. L. No. 100-704.

¹⁶ 15 U.S.C. § 78o(f).

¹⁷ Several SRO's (Philadelphia Stock Exchange, Chicago Board Options Exchange, Pacific Stock Exchange, and Boston Stock Exchange) have adopted the substance of the ITSFEA procedures under their rules applicable to members and member firms (See Securities and Exchange Act Release Nos. 30122 (December 30, 1991), 57 FR 729 (January 8, 1992); 30557 (April 6, 1992), 57 FR 13393 (April 16, 1992); 33171 (November 9, 1993), 58 FR 60892 (November 18, 1993); 34284 (June 30, 1994) 59 34876 (July 7, 1994).

¹⁸ The Exchange has requested that these procedures be accorded confidential treatment by the Commission.

¹⁹ The Exchange believes that it will have its procedures in place by February 1, 1995.

²⁰ 15 U.S.C. § 78s(b)(2)(1988).

²¹ 17 CFR 200.30-3 (a)(12)(1991).

SMALL BUSINESS ADMINISTRATION

[Application No. 99000147]

Fleet Equity Partners VI, L.P.; Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Fleet Equity Partners VI, L.P., of 111 Westminster Street, 4th Floor, Providence, Rhode Island 02903 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder. Fleet Equity Partners VI, L.P. is a limited partnership formed under Delaware law. Its area of operation will be throughout the United States.

Fleet Equity Partners VI, L.P. will be co-managed by Fleet Growth Resources II, Inc., and by Silverado III Corp., both of Providence, Rhode Island. Fleet Growth Resources II, Inc. is an indirect subsidiary of Fleet Financial Group, Inc., a \$48.0 million bank holding company located in Providence, Rhode Island. The officers and directors of Fleet Financial Group, Inc. affiliated with the Applicant are as follows:

Habib Y. Gorgi, 111 Westminster Street, Providence, Rhode Island 02903

Douglas L. Jacobs, 111 Westminster Street, Providence, Rhode Island 02903

Brian T. Moyrahan, 111 Westminster Street, Providence, Rhode Island 02903

H. Jay Sarles, 111 Westminster Street, Providence, Rhode Island 02903

Robert M. Van Degna, 111 Westminster Street, Providence, Rhode Island 02903

No one entity holds more than a 10.0% voting interest in the bank holding company.

The officers and shareholders of Silverado III Corp. are:

Name	Per- cent of owner- ship in- terest
Habib Y. Gorgi, 111 Westminster Street, Providence, Rhode Island 02903	50.0
Robert M. Van Degna, 111 Westminster Street, Providence, Rhode Island 02903	50.0

The Applicant will begin operations with an initial capitalization of \$10.0 million, and plans on making private equity investments in both emerging, and established small business concerns. The Applicant will consider investment opportunities throughout the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new SBIC under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Providence, Rhode Island.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: November 21, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94-29080 Filed 11-23-94; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2752]**Florida (and Contiguous Counties in Georgia); Declaration of Disaster Loan Area**

Gadsden County and the contiguous counties of Calhoun, Jackson, Leon, and Liberty in the State of Florida and Decatur, Grady, and Seminole Counties in the State of Georgia constitute a disaster area as a result of damages caused by a fire which occurred on October 28, 1994 in the Antique Center Mall in the City of Havana. Applications for loans for physical damage may be filed until the close of business on January 17, 1995 and for economic injury until the close of business on August 15, 1995 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308 or other locally announced locations.

The interest rates are:

	Per- cent
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 elsewhere	4.000

The numbers assigned to this disaster for physical damage are 275205 for Florida and 275305 for Georgia. For economic injury the numbers are 839500 for Florida and 839600 for Georgia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 15, 1994.

Cassandra M. Pulley,

Acting Administrator.

[FR Doc. 94-29046 Filed 11-23-94; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area 2697/2698/2738]**California; Amendment #7; Declaration of Disaster Loan Area**

The above-numbered Declaration is hereby amended, effective November 16, 1994, to extend the deadlines for filing applications for physical damages as well as economic injury resulting from the Northridge earthquake and subsequent aftershocks beginning on January 17 and continuing through April 22, 1994. The new deadline for both physical damages and economic injury is January 20, 1995.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 16, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94-29047 Filed 11-23-94; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 2118]

Bureau of Oceans and International Environmental and Scientific Affairs; United States Man and the Biosphere Program: Request for Proposals for the Biosphere Reserve Directorate

The Biosphere Reserve (BR) Directorate of the U.S. Man and the Biosphere Program (U.S. MAB) announces a catalytic grants program to support Biosphere Reserve workshops and partnership-building activities that promote cooperative regional, ecosystem-based initiatives.

A total of \$50,000 is available to support small grants in two distinct categories: (1) \$20,000 in total for conferences, workshops or forums; and (2) \$30,000 in total for partnership projects. The projected maximum single grant award is \$10,000. Grants are expected to average between \$4,000 and \$8,000. Persons interested in applying for these grants are encouraged to first obtain a copy of Strategic Plan for the U.S. Biosphere Reserve Program, from the U.S. MAB Secretariat.

Funding Objectives

The purpose of the grants is to assist projects that produce short-term tangible results furthering the mission of the United States Biosphere Reserve Program as defined in, Strategic Plan for the U.S. Biosphere Reserve Program, dated November 1994.

"The mission of the U.S. Biosphere Reserve Program is to establish and support a U.S. network of designated biosphere reserves that are fully representative of the biogeographical areas of the United States. The program promotes a sustainable balance among the conservation of biological diversity, compatible economic use, and cultural values, through public and private partnerships, interdisciplinary research, education, and communication."

Focal Issues

Within the mission of the U.S. Biosphere Reserve Program, the directorate seeks to support two to four conferences in 1995. A wide range of conference and workshop topics are eligible. For example: A forum for Biosphere Reserves stakeholders at a single Biosphere Reserves unit or cluster of units; a regional or local vision setting workshop; or a conference for Biosphere Reserves stakeholders from throughout a region focusing on an issue or management approach of shared interest. Other ideas for conferences and workshop topics promoting the mission of Biosphere Reserves are welcome.

The U.S. Biosphere Reserve Directorate also intends to support three to six partnership projects in 1995. Proposals are sought which strengthen cooperative relationships for enhancing the functions of Biosphere Reserves. Innovative and new approaches to conservation challenges will be given priority. Examples of eligible projects could include: Assessing natural or cultural resources; building public support for conservation and sustainable development; fostering demonstrations of cooperative ecosystem management or, developing local planning mechanisms. Other ideas for partnership projects that promote the mission of Biosphere Reserves are welcome. Feasibility studies of expanding the activities of existing Biosphere Reserves to more fully implement the regional, ecosystem-based mission of the BR program also are encouraged. However, feasibility studies for designating new Biosphere Reserve units are ineligible.

Proposals may include a request for staff support only if the proposal and the staff position are related to expanding the regional activities of a Biosphere Reserve or promoting a cooperative program involving multiple agencies and nongovernmental partners.

Proposal Content

Each proposal should have a title page and a one page synopsis of the proposal activities.

A maximum of three additional pages should describe: (1) The affected Biosphere Reserve or Biosphere Reserve Cluster; (2) the applicant's relationship to the Biosphere Reserve; (3) the proposed conference or partnership project; (4) how the proposed conference or project relates to past, current, and projected BR activities at the site; (5) how the proposal complies generally and specifically with the evaluation criteria; and (6) how the results of the conference or activity will be evaluated.

All proposals must also include a one page itemized budget including personnel, travel, operation, equipment/supplies with justification. The budget page should show the status of any matching funds to the proposed activity.

A one-page map of the affected Biosphere Reserve, showing if possible, the BR zonation and if applicable, the site of the proposed activities must be included.

The last page of the proposal should be a one-page letter of endorsement from the Biosphere Reserve manager or managers. If the proposed activity would involve or benefit more than one Biosphere Reserve, one page letters of

endorsement should indicate the support of the managers of the involved or affected Biosphere Reserves. Biosphere Reserve managers should endorse no more than one single proposal in each funding category this year.

Evaluation and Review Process

A review panel of the U.S. Biosphere Reserve Directorate will evaluate proposals based upon the following criteria:

- Alignment of the proposal with the mission and goals of the United States Biosphere Reserve Program as defined in the "Strategic Plan for the U.S. Biosphere Reserve Program" dated November 1994, available from the U.S. MAB Secretariat, (address below);
- Likelihood that the proposal will result in tangible progress within a year toward promoting cooperative regional, ecosystem based initiatives that integrate conservation and sustainable development at Biosphere Reserve sites;
- Demonstrated local support for the project;
- Innovation in implementing Biosphere Reserve functions;
- Potential to apply the concept or project at other BR site;
- Extent to which grant funds will be leveraged with matching funds or support from other private or public sources;
- Capacity of the applicant to implement the proposal;
- Endorsement from Biosphere Reserve Manager(s).

Limitations. Grants may not be used for: institution overhead academic research; acquisition of land, buildings, or capital equipment; general support of agency functions; or political activities. All grants should produce tangible results within one year.

Deadlines. Proposals must be postmarked by January 31, 1995. Awards will be announced at the annual meeting of BR managers in the spring of 1995. Principals will receive from the U.S. MAB Secretariat copies of all U.S. MAB/BR review evaluations of their proposals and a written notification of the directorate's decision on their proposal.

For further information contact Dr. Roger Soles, U.S. MAB Secretariat, OES/EGC/MAB, Department of State, Washington, DC 20522. Tel. (703) 235-2946, Fax. (703) 235-3002.

Submission of Proposals

Mail proposals to: U.S. Man and the Biosphere Program, OES/EGC/MAB, United States Department of State,

Washington, DC 20522. Attention
Biosphere Reserve Directorate.

The deadline for proposals is January
31, 1995.

Dated: November 14, 1994.

Roger E. Sole,

Executive Director, U.S. Man and the
Biosphere Program, Office of Global Change.

[FR Doc. 94-29036 Filed 11-23-94; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs
Administration, DOT.

ACTION: List of applicants for
exemptions.

SUMMARY: In accordance with the
procedures governing the application
for, and the processing of, exemptions
from the Department of Transportation's
Hazardous Materials Regulations (49
CFR Part 107, Subpart B), notice is
hereby given that the Office of
Hazardous Materials Safety has received
the applications described herein. Each
mode of transportation for which a
particular exemption is requested is
indicated by a number in the "Nature of
Application" portion of the table below
as follows: 1—Motor vehicle, 2—Rail
freight, 3—Cargo vessel, 4—Cargo
aircraft only, 5—Passenger-carrying
aircraft.

DATES: Comments must be received on
or before December 27, 1994.

ADDRESS COMMENTS TO: Dockets Unit,
Research and Special Programs
Administration, U.S. Department of
Transportation, Washington, DC 20590.

Comments should refer to the
application number and be submitted in
triplicate. If confirmation of receipt of
comments is desired, include a self-
addressed stamped postcard showing
the exemption application number.

FOR FURTHER INFORMATION: Copies of the
applications are available for inspection
in the Dockets Unit, Room 8426, Nassif
Building, 400 7th Street, SW.,
Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11338-N	BF Goodrich Specialty Chemicals, Cleveland, OH.	49 CFR 174.67 (i) & (j)	To authorize tank cars, containing carbon disulfide, Class 3, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)
11340-N	McCain Foods, Inc., Easton, MA.	49 CFR 174.67 (i) & (j)	To authorize tank cars, containing fuel, oil, Class 3, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)
11342-N	Midland Fumigant Co., Inc., Leavenworth, KS.	49 CFR 172.504	To authorize transportation of aluminum phosphide, Division 4.3, in private owned pest control vehicles without placards. (Mode 1.)
11344-N	Dupont Co., Wilmington, DE.	49 CFR 174.67 (h) & (i)	To authorize tank cars, containing Class 8 material, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)
11345-N	Kaiser Compositex, Inc., Brea, CA.	49 CFR 173.302(a)(1), 173.304(a)(d), 175.3.	To authorize the manufacture, marking and sale of overwrapped composite high pressure cylinder built to DOT FRP-1 for use in transporting various gases classed in Division 2.1 and 2.2. (Modes 1, 2, 3, 4, 5.)
11347-N	Nuclear Containers, Inc., Elizabethton, TN.	49 CFR 178.358	To reissue an exemption issued on an emergency basis to authorize the manufacture, mark, and sell of DOT Specification 21PF-1B overpacks, with minor variations in the mechanical features and chemical composition of the insulation material, for shipment of uranium hexafluoride fissile (containing more than 1% U-235). (Modes 1, 2, 3.)
11348-N	Engelhard Corporation, Carteret, NJ.	49 CFR 173.421(d), 173.421-1(a), 173.421- 2(c).	To authorize transportation of ammonium perchlorate, a division 5.1 material which also meets the definition of Class 7, contained in 1-liter polyethylene plastic jars overpacked in DOT Specification packaging, to be transported without required radioactive material markings. (Modes 1, 4, 5.)
11349-N	City of Houston, Houston, TX.	49 CFR 49 CFR Sections 174.67 (i) & (j).	To authorize tank cars, containing chlorine, to remain standing with unloading connections attached when no product is being transferred. (Mode 2.)

This notice of receipt of applications
for new exemptions is published in
accordance with Part 107 of the
Hazardous Materials Transportation
Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November
17, 1994.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of
Hazardous Materials Exemptions and
Approvals.

[FR Doc. 94-29003 Filed 11-23-94; 8:45 am]

BILLING CODE 4810-60-M

Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs
Administration, DOT.

ACTION: List of Applications for
modification of exemptions or
applications to become a party to an
exemption.

SUMMARY: In accordance with the
procedures governing the application

for, and the processing of, exemptions
from the Department of Transportation's
Hazardous Materials Regulations (49
CFR Part 107, Subpart B), notice is
hereby given that the Office of
Hazardous Materials Safety has received
the applications described herein. This
notice is abbreviated to expedite
docketing and public notice. Because
the sections affected, modes of
transportation, and the nature of
application have been shown in earlier
Federal Register publications, they are

not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications

have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 12, 1994.

ADDRESS COMMENTS TO: Docket Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
9157-X	Matheson Gas Products, Secaucus, NJ (See Footnote 1)	9157
9677-X	Allied Universal Corporation, Miami, FL (See Footnote 2)	9677
10227-X	Caire, Inc., Bloomington, MN (See Footnote 3)	10227
10429-X	Nalco Chemical Company, Naperville, IL (See See Footnote 4)	10429

¹ To modify exemption to authorize additional non-DOT specification multi unit tank cars for use in transporting hydrogen sulfide, Division 2.3.

² To modify exemption to provide for transportation of Class 8 material in non-DOT specification one-gallon bottles built to 2E standards overpacked in DOT specification fiberboard boxes.

³ To modify the exemption to provide for design changes to non-DOT specification cylinders used in transporting Division 2.2 material.

⁴ To modify exemption to authorize transportation of Class 3, 8 and Division 5.2 material in DOT specification 31A IBCs to be unloaded without being removed from the vehicle.

Application No.	Applicant	Parties to exemption
7616-P	Alaska Railroad Corporation, Anchorage, AK	7616
8236-P	Toyota Motor Sales U.S.A., Inc., Torrance, CA	8236
8451-P	Reactivities Management Corporation, Chesapeake, VA	8451
8526-P	Landair Transport, Romulus, MI	8526
8958-P	BIMEX Corp., Mamaroneck, NY	8958
9275-P	Bath & Body Works, Columbus, OH	9275
9275-P	Cacique, Reynoldsburg, OH	9275
9275-P	Limited Too, Columbus, OH	9275
9275-P	Brylane, Indianapolis, IN	9275
9275-P	Victoria Secret Catalog, Columbus, OH	9275
9275-P	Structure, Columbus, OH	9275
9275-P	Abercrombie & Fitch, Reynoldsburg, OH	9275
9275-P	Victoria Secret Stores, Reynoldsburg, OH	9275
9275-P	Express, Columbus, OH	9275
9275-P	Henri Bendel, New York, NY	9275
9275-P	Lane Bryant, Reynoldsburg, OH	9275
9723-P	Environmental Products & Services, Inc., Syracuse, NY	9723
10141-P	Engelhard Corporation, Carteret, NJ-P	10141
10441-P	Dart Trucking Company, Inc., Canfield, OH	10441
10570-P	Albax, Inc., Holland, MI	10570
10751-P	OEI, Inc., Whitesburg, GA	10751
10751-P	WESCO (Western Explosive Systems Company), Salt Lake City, UT	10751
10787-P	Evergreen International Airlines, Inc., McMinnville, OR	10787
11043-P	Chemical Waste Management, Inc., Oak Brook, IL	11043
11043-P	Division Transport, El Dorado, AR	11043
11043-P	Dart Trucking Company, Inc., Canfield, OH	11043
11043-P	Advanced Environmental Technology Corporation, Flanders, NJ	11043
11043-P	California Advanced Environmental Technology Corp., Hayward, CA	11043
11136-P	J & J Pyrotechnics Manufacturing, Inc., Moscow, PA	11136
11156-P	MEMSCO, Dawson Springs, KY	11156
11230-P	ICI Explosives USA, Inc., Dallas, TX	11230

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 17, 1994.

J. Suzanne Hedgepeth,
Chief, Exemption Programs, Office of
Hazardous Materials Exemptions and
Approvals.

[FR Doc. 94-29004 Filed 11-23-94; 8:45 am]

BILLING CODE 4910-50-M

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 11-01]

Delegation of Authority With Respect to Synthetic Fuels Projects

November 18, 1994.

1. *Purpose.* This Directive states the structure and functions of the Office of Synthetic Fuels Projects within the

Office of the Deputy Assistant Secretary (Government Financial Policy), defines responsibilities relating to synthetic fuels projects, and delegates certain authority relating to synthetic fuels projects.

2. *Definitions.* a. *Contract Amendment.* An amendment to those financial assistance agreements entered into by the United States Synthetic Fuels Corporation and the Project sponsors for synthetic fuels projects.

b. *Director.* The Director, Office of Synthetic Fuels Projects.

c. *Projects.* These are synthetic fuels projects for which the United States Synthetic Fuels Corporation made legal, valid and binding financial assistance awards prior to December 19, 1985.

d. *SFC.* The United States Synthetic Fuels Corporation.

3. *Delegation.* Each official named in the paragraph 4. is delegated the authority necessary to perform that official's functions as described.

4. *Responsibilities.* a. *The Under Secretary (Domestic Finance)* is responsible for making the final determination, upon receipt of a written recommendation of the Deputy Assistant Secretary (Government Financial Policy) and the Assistant General Counsel (Banking and Finance), on all Contract Amendments which have potential impact on either the obligational authority of the United States or the Project's finances.

b. *The Deputy Assistant Secretary (Government Financial Policy)* shall:

(1) Upon the receipt of a written recommendation of the Director and the Assistant General Counsel (Banking and Finance), make the final determination on:

(a) All Contract Amendments not involving changes of obligational authority or not having potential impact on a Project's finances;

(b) All environmental monitoring plans (and revisions thereto) required for each Project receiving financial assistance;

(c) Material Project design amendments; and

(2) Approve, with the cosignature of the Director:

(a) Written instructions authorizing guaranteed lenders to make loan disbursements in connection with loan guarantees entered into by the SFC, pursuant to Section 133 of the Energy Security Act; and

(b) Payments required to be made in connection with those financial assistance agreements entered into by the SFC, pursuant to Section 134 of the Energy Security Act.

c. *The Director, Office of Synthetic Fuels Projects,* is responsible for the

operational and construction monitoring of Projects and other duties as assigned, and shall:

(1) Review and, if appropriate, provide a written recommendation of approval to the Deputy Assistant Secretary (Government Financial Policy) for all:

(a) Contract Amendments; and

(b) Environmental monitoring plans (and revisions thereto) required for each Project receiving financial assistance, taking into consideration the comments of the Department of Energy and the Environmental Protection Agency in their capacity as members of the Monitoring Review Committee established pursuant to each Financial Assistance Agreement and the Environmental Monitoring Plan Guidelines (48 Federal Register 46676-46685, dated October 13, 1983);

(2) Approve, upon the recommendation of the contract administrator and with the concurrence of the Assistant General Counsel (Banking and Finance):

(a) Changes to Project control documents, as contemplated by the financial assistance agreements entered into between the SFC and the Project sponsors; and

(b) Ad hoc waivers to contractual procedures provided for in the financial assistance agreements entered into between the SFC and the Project sponsors; and

(3) Approve, with the cosignature of the Deputy Assistant Secretary (Government Financial Policy):

(a) Written instructions authorizing guaranteed lenders to make loan disbursements in connection with loan guarantees entered into by the SFC pursuant to Section 133 of the Energy Security Act; and

(b) Payments required to be made in connection with those financial assistance agreements entered into by the SFC pursuant to Section 134 of the Energy Security Act.

5. *Redelegation.* The Director, Office of Synthetic Fuels Projects, may redelegate to the contract managers the following functions: (a) the approval of reports required by contract; and (b) the approval of routine procedures specified by contract.

6. *Administrative Support.* Administrative support for the activities of the Office of Synthetic Fuels Projects shall be provided by the appropriate offices within the Office of the Assistant Secretary (Management).

a. The Director, Personnel Resources Division, shall execute any necessary documents pertaining to personnel formerly employed by the SFC.

b. The Director, Administrative Operations Division, shall execute any necessary documents pertaining to other administrative aspects of the SFC.

7. *Cancellation.* Treasury Directive 11-01, "Office of Synthetic Fuels Projects," dated August 6, 1986, is superseded.

8. *Authorities.* a. Subtitle J of the Energy Security Act, Pub. L. 96-294; Pub. L. 99-190; and Pub. L. 99-272.

b. Treasury Order 100-04, "Delegation of Authority to Terminate the United States Synthetic Fuels Corporation," dated February 25, 1986.

9. *Reference.* Financial Assistance Agreement and the Environmental Monitoring Plan Guidelines (48 Federal Register 46676-46685, dated October 13, 1983).

10. *Expiration Date.* This Directive expires three years from the date of issuance unless canceled or superseded by that date.

11. *Office of Primary Interest.* Office of Synthetic Fuels Projects, Office of the Deputy Assistant Secretary (Government Financial Policy), Office of the Under Secretary (Domestic Finance).

Frank N. Newman,
Deputy Secretary of the Treasury,
[PR Doc. 94-29066 Filed 11-23-94; 8:45 am]
BILLING CODE 4810-25-P

Customs Service

[T.D. 94-92]

Extension of General Maritime Corporation's Customs Gauger Approval to the Site Located in Houston, TX

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

ACTION: Notice of the extension of General Maritime Corporation's Customs gauger approval to include their Houston, Texas gauging facility.

SUMMARY: General Maritime Corporation, of Stamford, Connecticut, a Customs approved gauger under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval to include the Houston, Texas site. Specifically, the extension given to the Houston site will include the approval to gauge petroleum and petroleum products, organic compounds in bulk and liquid form and animal and vegetable oils.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs

Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. General Maritime Corporation, a Customs commercial approved gauger, has applied to Customs to extend its Customs gauger approval to its Houston, Texas facility. Review of the qualifications of the Houston site shows that the extension is warranted and, accordingly, has been granted.

Location

General Maritime Corporation's new site is located at 7007 Gulf Freeway, Houston, Texas, 77087.

Approved-Accredited Sites

General Maritime Corporation has been approved by the U.S. Customs Services at the following locations: Stamford, Connecticut; and Houston, Texas.

EFFECTIVE DATE: October 28, 1994.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief, Technical Branch, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, DC 20229 at (202) 927-1060.

Dated: November 1, 1994.

George D. Heavey,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 94-28993 Filed 11-23-94; 8:45 am]

BILLING CODE 4820-02-P

[T.D. 94-93]

License Cancellation

AGENCY: U.S. Customs Service,

Department of the Treasury

ACTION: General Notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker license has been cancelled due to the death of the broker. This license was issued in the New York region.

Louis Jean Noens—license No. 12662.

Dated: November 18, 1994.

Philip Metzger,

Director, Office of Trade Operations.

[FR Doc. 94-28992 Filed 11-23-94; 8:45 am]

BILLING CODE 4820-02-P

Internal Revenue Service

Tax on Certain Imported Substances (Cyclododecanol, et al.); Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89-61, 1989-1 C.B. 717, of petitions requesting that cyclododecanol, 1,5,9-cyclododecatriene, and adiponitrile be added to the list of taxable substances in section 4672(a)(3). Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATES: Submissions must be received by January 24, 1995. Any modification of the list of taxable substances based upon these petitions would be effective July 1, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (Petition), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on July 12, 1994 (cyclododecanol and 1,5,9-cyclododecatriene) and July 20, 1994 (adiponitrile). The petitioner is E.I. du Pont de Nemours and Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

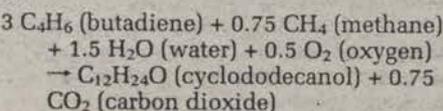
Cyclododecanol

HTS number: 2906.19.00

CAS number: 1724-39-6

This substance is derived from the taxable chemicals butadiene and methane. Cyclododecanol is a solid produced predominantly by air oxidation of cyclododecane. Cyclododecane is produced by hydrogenation of 1,5,9-cyclododecatriene which is produced by the trimerization of butadiene.

The stoichiometric material consumption formula for this substance is:



According to the petition, taxable chemicals constitute 80.18 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be \$6.21 per ton. This is based upon a conversion factor for butadiene of 1.22 and a conversion factor for methane of 0.08.

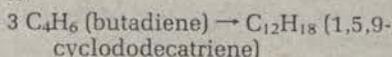
1,5,9-cyclododecatriene

HTS number: 2906.19.00

CAS number: 4904-61-4

This substance is derived from the taxable chemical butadiene. 1,5,9-cyclododecatriene is a solid produced predominantly by trimerization of butadiene in the presence of a coordination-type catalyst.

The stoichiometric material consumption formula for this substance is:



According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be \$5.64 per ton. This is based upon a conversion factor for butadiene of 1.16.

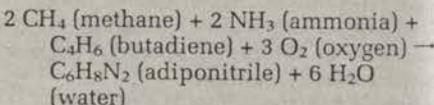
Adiponitrile

HTS number: 2926.90.50

CAS number: 111-69-3

This substance is derived from the taxable chemicals methane, ammonia, and butadiene. Adiponitrile is a liquid produced predominantly by the reaction of butadiene with hydrogen cyanide (derived from ammonia and from methane in natural gas).

The stoichiometric material consumption formula for this substance is:



According to the petition, taxable chemicals constitute 55.55 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be \$5.72 per ton. This is based upon a conversion factor for methane of 0.52, a conversion factor for ammonia of 0.42, and a conversion factor for butadiene of 0.58.

Comments and Requests for a Public Hearing

Before a determination is made, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a

person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Dale D. Goode,

*Federal Register Liaison Officer, Assistant
Chief Counsel (Corporate).*

[FR Doc. 94-28981 Filed 11-23-94; 8:45 am]

BILLING CODE 4830-01-U

Sunshine Act Meetings

Federal Register

Vol. 59, No. 226

Friday, November 25, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, November 22, 1994, the Corporation's Board of Directors determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki R. Tigert, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding final amendments to Part 330 of the Corporation's rules and regulations, entitled "Deposit Insurance Coverage," which (1) require that certain written disclosures be made by insured depository institutions to employee benefit plan depositors in certain situations in order to reduce the uncertainty about whether such accounts are eligible for "pass-through" deposit insurance coverage and to provide a timely disclosure to such depositors when such coverage no longer is available; and (2) make two technical amendments to Part 330 involving the insurance rules for joint accounts and the accounts for which an insured depository institution is acting as a fiduciary.

The Board also determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of certain personnel matters.

By the same majority vote, the Board further determined that no notices earlier than November 17 and November 22, 1994, respectively, of the changes in the subject matter of the meeting were practicable.

Dated: November 22, 1994.

Federal Deposit Insurance Corporation.

Leneta G. Gregorie,*Acting Assistant Executive Secretary.*

[FR Doc. 94-29245 Filed 11-22-94; 3:16 pm]

BILLING CODE 6714-0-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:33 a.m. on Tuesday, November 22, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a matter relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki R. Tigert, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(iii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: November 22, 1994.

Federal Deposit Insurance Corporation.

Leneta G. Gregorie,*Acting Assistant Executive Secretary.*

[FR Doc. 94-29246 Filed 11-22-94; 8:45 am]

BILLING CODE 6714-0-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 29, 1994 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, December 1, 1994 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Future Meetings.

Correction and Approval of Minutes.

Regulations:

Personal Use of Campaign Funds; Draft Final Rules (11 CFR Part 113).

Petition for Rulemaking filed by Anthony F. Essaye and William Josephson: Notice of Availability (tentative).

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer,

Telephone: (202) 219-4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 94-29244 Filed 11-22-94; 3:15 pm]

BILLING CODE 6715-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 16, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE: Thursday, November 17, 1994.

STATUS: Open and Closed [Pursuant to 5 U.S.C. 552b (c)(10)].

PLACE: 1730 K Street, NW., Suite 600, Washington, DC.

CHANGES IN THE MEETING: Item #3, JEN, Inc., Docket Nos. SE 93-262, etc. has been changed from open to closed. It was determined by a unanimous vote of Commissioners that this item be held in closed session. It was also determined that no earlier announcement of this change was possible.

CONTACT PERSON FOR MORE INFORMATION:

Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 94-29157 Filed 11-22-94; 8:45 am]

BILLING CODE 6735-01-M

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 2:00 p.m. on Monday, December 5, 1994, and at 9:00 a.m. on Tuesday, December 6, 1994, in Tampa, Florida.

The December 5 meeting is closed to the public (See 59 FR 60049, November 21, 1994). The December 6 meeting is open to the public and will be held at the Wyndham Harbour Island Hotel, 725 South Harbour Island Boulevard, Tampa, in Ballroom II. 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 of the Board, David F. Harris, at (202) 268-4800.

Agenda

Monday Session

December 5—2:00 p.m. (Closed)

1. Briefing on the Postal Rate Commission's Decision in Docket No. R94-1. (Mary S. Elcano, General Counsel, and Gail G. Sonnenberg, Vice President, Market Systems.)
2. Consideration of an Incentive Compensation Program. (Michael J. Riley, Chief Financial Officer and Senior Vice President)

Tuesday Session

December 6—9:00 a.m. (Open)

1. Minutes of the Previous Meeting, October 3-4, 1994.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon)
3. Chief Inspector's Semiannual Report. (Kenneth J. Hunter, Chief Postal Inspector)

4. Consideration of FY 1994 Audited Financial Statements. (Vice Chairman Tirso del Junco, M.D.; and Michael J. Riley, Chief Financial Officer and Senior Vice President)

5. Employee Opinion Survey Results. (Suzanne J. Henry, Vice President, Employee Relations)

6. Report on the Southeast Area. (David C. Bakke, Vice President, Area Operations)

7. Capital Investments. (All Informational Briefings)

a. 29 Remote Computer Readers. (William J. Dowling, Vice President, Engineering)

b. Small Bulk Mail Center Parcel Sorting Machine Slide Modifications. (William J. Dowling, Vice President, Engineering)

c. Santa Barbara, California, Processing & Distribution Center. (Gene R. Howard, Vice President, Pacific Area Operations)

8. Tentative Agenda for the January 9-10, 1995, meeting in Washington, DC

David F. Harris,

Secretary.

[FR Doc. 94-29259 Filed 11-22-94; 3:17 pm]

BILLING CODE 7710-42-M

Corrections

Federal Register

Vol. 59, No. 226

Friday, November 25, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 31, and 42

[FAR Case 93-5]

Federal Acquisition Regulation; Employee Compensation Costs

Correction

In proposed rule document 94-24931 beginning on page 51399 in the issue of Tuesday, October 11, 1994, make the following corrections:

1. On page 51399, in the second column, under the heading A. **Background**, in the second full paragraph, in the 6th line, "complaint" should read "compliant".
2. On the same page, in the same column, in the same paragraph, in the 15th line, "exist" should read "exists".
3. On the same page, in the third column, in the eighth line, "allowable" should read "allowability".

§ 31.205-6 [Corrected]

4. Section 31.205-6 is corrected as follows:

- a. On page 51400, in the second column, in the first paragraph "(b) *General*" should be designed paragraph "(a) *General*."
- b. On the same page, in the same paragraph, in the 25th line, "person" should read "personal".
- c. On the same page, in the third column, in paragraph (b), in the 15th line, "statues" should read "statutes".
- d. On the same page, in the same column, in paragraph (b)(1), the 12th and 13th lines should read "comparable services obtainable from outside sources." Also, the paragraph reading

"In addition * * *" is a continuation of paragraph (1).

e. On page 51401, in the first column, in the 13th line, insert "an" after "on".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-5101-3]

Alabama; Final Authorization of Revisions to State Hazardous Waste Management Program

Correction

In rule document 94-27540 beginning on page 56407 in the issue of Monday, November 14, 1994, make the following correction:

On page 56047, in the third column, in the third full paragraph, in the seventh line, "January 13, 1994" should read "January 13, 1995".

BILLING CODE 1505-01-D

federal register

Friday
November 25, 1994

Part II

Department of Education

34 CFR Part 682

Federal Family Education Loan Program;
Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

RIN 1840-AC06

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Family Education Loan (FFEL) Program. These amendments are needed to implement changes in the Higher Education Act of 1965, as amended (HEA), giving the Secretary additional powers to assure the safety of reserve funds and assets maintained by guaranty agencies insuring educational loans under the FFEL Program pursuant to agreements with the Secretary. The amendments further define "reserve funds and assets" and establish the substantive standard for the return of "unnecessary" reserves. They also provide procedural due process for challenges to these orders and for orders requiring that reserve funds and assets outside of the guaranty agency's control be returned to it or to the Secretary.

EFFECTIVE DATE: These regulations take effect July 1, 1995.

FOR FURTHER INFORMATION CONTACT:

Donald M. Feuerstein, Senior Advisor, U.S. Department of Education, 600 Independence Avenue SW., (Room 4624, ROB-3), Washington, DC 20202-5343. Telephone: (202) 401-2280.

Individuals who use a

telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FFEL Program regulations (34 CFR Part 682) govern the Federal Stafford Loan Program, the Federal Supplemental Loans for Students Program, the Federal PLUS Program, and the Federal Consolidation Loan Program (formerly the Guaranteed Student Loan programs). These programs provide loans to eligible student or parent borrowers who might otherwise be unable to finance the costs of postsecondary education. The loans are guaranteed by State or private, non-profit guaranty agencies designated by the Secretary, which are required to maintain reserves to support those guarantees.

The Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) (OBRA), enacted August 10, 1993, added section 422(g)(1) of the HEA, which codified the long-standing and judicially-supported

principle that guaranty agency reserve funds and assets are "the property of the United States to be used in the operation of * * * the FFEL Program and the Direct Loan Program. To protect the Federal fiscal interest in the guaranty agency reserve funds and assets, OBRA authorized the Secretary to direct: (1) The return to the Secretary of "unnecessary" reserves from guaranty agencies (section 422(g)(1)(A)), (2) the return to the guaranty agency or to the Secretary under specified circumstances of guaranty agency reserves and assets held by, or under the control of, any other party (section 422(g)(1)(B)), and (3) guaranty agencies to cease any "misapplication, misuse, or improper expenditure" of reserve funds or assets (section 422(g)(1)(C)).

On August 10, 1994, the Secretary published a notice of proposed rulemaking (NPRM) for the FFEL Program in the Federal Register (59 FR 41184). Those proposed regulations were developed in accordance with section 422(g)(1)(D) of the HEA, which requires that standards and procedures for section 422(g)(1)(A) and (B) be developed through negotiated rulemaking. Monthly negotiated rulemaking sessions were held from January through June 1994 in and around Washington, DC. Consensus was reached on all of the rules proposed in the NPRM and on the accompanying preamble discussion. The Secretary specifically relies upon that consensus and preamble in issuing these final rules without substantive change from the NPRM.

These regulations improve the efficiency of the Federal student aid programs, and, by so doing, improve their capacity to enhance opportunities for postsecondary education. Encouraging students to graduate from high school and to pursue high quality postsecondary education are important elements of the National Education Goals. The student aid programs also enable current and future workers to have the opportunity to acquire both basic and technologically advanced skills needed for today's and tomorrow's workplace. They provide the financial means for an increasing number of Americans to receive an education that will prepare them to think critically, communicate effectively, and solve problems efficiently, as called for in the National Education Goals.

Substantive Revisions to the Notice of Proposed Rulemaking

As explained below, the Secretary has not made any substantive changes from the NPRM.

Analysis of Comments and Changes

In response to the NPRM, 23 outside parties submitted timely comments on the proposed regulations. Fifteen commenters explicitly support the consensus reached at the negotiated rulemaking proceeding, and one commenter particularly finds the preamble to the NPRM helpful. None of the commenters oppose the proposed regulations as a package. Some of the comments suggest minor adjustments to the proposed regulations, and an analysis of those comments follows. Other comments deal with matters not relevant to the regulations proposed in the NPRM. In the spirit of the consensus reached at the negotiated rulemaking sessions, the Secretary has decided not to address specifically the other comments at this time but may consider alternate approaches such as these when the impact of the regulatory changes made here is evaluated based on actual experience. Accordingly, they are not discussed in the following analysis, although all comments will continue to be available for public inspection as stated in the NPRM (59 FR 41187).

Numerous comments refer to an additional rule to implement section 422(g)(1)(C) of the HEA and to a system of uniform financial projections for guaranty agencies. The commenters request a formal comment process or at least an opportunity to be consulted before the rule or system of projections is adopted. The NPRM (59 FR 41184, 41186) describes these items and the Secretary's plans for them and explains that the additional rule is not subject to negotiated rulemaking. Because of the need under section 482(c) of the HEA to publish these regulations by December 1, it was not possible to keep the negotiated rulemaking proceeding open on a voluntary basis, as a number of commenters suggested. New regulations are generally subject to public comment under the Department's normal rulemaking procedures; and, as stated in the NPRM, the Secretary intends to engage in prior consultation with interested parties on an additional rule under section 422(g)(1)(C) of the HEA. In the meantime, as pointed out in the Conference Report on OBRA, the Secretary already has the ability to deal with improper expenditures of reserve funds and assets. Authority for a system of financial projections already exists under section 428(b)(2)(C) of the HEA and 34 CFR 682.414(b)(5), and the matter is more appropriately viewed as a request for information from a guaranty agency under that authority than as a new regulatory requirement. A preliminary version of a system of

financial projections is currently under discussion with guaranty agencies.

One commenter, who was a representative of the guaranty agencies at the negotiated rulemaking proceeding, went so far as to argue that the later promulgation of a new regulation under section 422(g)(1)(C) of the HEA "would be changing one of the essential terms in the 'deal' struck in these negotiations," and that "[h]ad the non-federal negotiators known of the Department's intention to proceed with a separate rulemaking . . . we would not have been so forthcoming in our concessions." Although the Secretary appreciates that concessions were made by all negotiators, including the Department's, in achieving consensus, this commenter misunderstands the operation of the negotiated rulemaking process. Any interim agreements reached as the proceeding progressed were tentative only, subject to final confirmation with respect to the entire package. In this case, consensus was achieved at the final negotiating session, while the Secretary's draft proposal on improper expenditures had been withdrawn at a prior meeting.

Section 682.410 Fiscal, Administrative, and Enforcement Requirements

Section 682.410(a) Fiscal Requirements

Section 682.410(a)(1) Reserve Fund Assets

Comments: One commenter requested the Secretary to define sources of guaranty agency reserve funds that can be considered "non-federal." Another urged that funds received from a State be included in the reserve fund only if they are "used" for guaranty activities.

Discussion: The Secretary does not see any need to define any portion of guaranty agency reserves as "non-federal" in these regulations. The term "non-federal" does not appear in the new section 422(g)(1) of the HEA but instead in pre-existing section 422(a)(2), dealing with a previous authority for the provision and recall of Federal advance funds and other reserves. Although the excerpt from the conference report on OBRA quoted in the NPRM (59 FR 41184) did use the term "federal portion," it is not clear what was meant by this reference, or what significance it should be given in light of the unqualified language of section 422(g)(1) itself and of prior court decisions defining the Federal interest in guaranty agency reserve funds. In any event, the long-standing definition of reserve fund in § 682.410 was based on sections 422, 428, and 432 of the HEA as they existed even prior to OBRA and does not require any additional

authority from section 422(g)(1). All of the sources specified in § 682.410 of the regulations may be applied only to the uses also specified there. The particular subject of State sources was extensively discussed at the negotiated rulemaking proceeding, and the proposed language represents a compromise of competing positions that was agreed to at the proceeding.

Changes: None.

Section 682.410(a)(2) Uses of Reserve Fund Assets

Comments: One commenter elaborated on the explanation of new paragraph (a)(2)(xi) in the preamble by stating that the "good faith" proviso in the paragraph "is a restatement of the basic rule of non-retroactivity. * * *

Discussion: The Secretary agrees with the commenter's observation that this protection against application of certain new regulatory provisions to conduct that occurred prior to their effective date is unavailable if the conduct was not consistent with the "laws, rules, standards, customs, and practices prevailing" at the time of occurrence. It would not be appropriate to offer a safe harbor to conduct that was questionable even when it occurred.

Change: None

Section 682.410(a)(3) Accounting Basis

Comments: Numerous commenters urged that guaranty agency published financial statements continue to be based on generally-accepted accounting principles. A few even urged that ED Form 1130, the basic form for guaranty agency financial reporting to the Secretary, be changed to require reporting on an accrual basis, or at least in accordance with generally-accepted accounting principles, and that other reserve fund assets be considered in determining satisfaction of reserve ratio requirements. One commenter requested a specification of the first fiscal year to which this new paragraph is applicable.

Discussion: The NPRM made clear that § 682.410(a)(3) applies only to "reserve fund reporting," and in that respect it merely formalizes the existing instructions to Form 1130 (59 CFR 41185). Thus, the fact that the effective date of this regulatory requirement is in the middle of a Federal fiscal year and may be in the middle of an agency's fiscal year should not be a concern, and there is no need to specify an effective fiscal year. The new paragraph is not intended to require any change in a guaranty agency's published financial statements or the method of computing its fund balance used in those statements. It would not be appropriate, however, to change the accounting basis

for Form 1130. Certain accrual and deferral items are already collected by Items E-17 to E-22 of the form. Moreover, the Secretary believes that the statutory reserve ratios of section 428(c)(9) of the HEA were selected by the Congress on the basis of the cash reserve data collected on Form 1130, and a change in the method of computing the reserve ratio would accordingly also require reconsideration of the appropriateness of the ratio itself. On the other hand, some agencies publish a so-called reserve ratio that is computed in a different manner from that required by the statute and regulations. The Secretary considers it to be misleading for a guaranty agency to do so without also publishing its statutory reserve ratio and explaining the difference in computation.

Changes: None.

Section 682.410(a)(5) Investments

Comments: A commenter requested the Secretary to issue clearer guidelines for low-risk investments or to approve individual agencies' investment policies.

Discussion: The courts have confirmed that a guaranty agency's role with respect to its reserve fund and assets is "analogous" or "akin" to that of a trustee. See *e.g.*, *Education Assistance Corp. v. Cavalos*, 902 F.2d 617, 627 (8th Cir. 1990), cert. denied, 111 S.Ct. 246 (1990); *Ohio Student Loan Commission v. Cavalos*, 900 F.2d 894, 899 (6th Cir. 1990), cert. denied, 111 S.Ct. 245 (1990). Thus, there is a whole body of existing fiduciary law to flesh out the Secretary's regulatory provisions for guaranty agency reserve funds and assets. To eliminate any uncertainty, however, the Department is willing to review the investment policies of agencies at their request.

Changes: None.

Section 682.410(a)(6) Development of Assets

Comments: One commenter requested qualitative or quantitative guidance on the meaning of "substantial" with respect to situations in which asset sharing for program and non-program uses requires cost sharing.

Discussion: As indicated in the NPRM (59 FR 41185), this amendment was the subject of intense debate at the negotiated rulemaking proceeding. Significant concessions were made by all negotiators to reach agreement on the amendment. As one commenter put it, "the guaranty agency negotiators gave up litigable positions" on this provision, among others, to make consensus possible. Therefore, the Secretary is particularly gratified that there has not

been any negative comment on this amendment. With regard to the word "substantial," the Secretary is using it as an antonym for the word "nominal," denoting situations in which it would not be productive to attempt to quantify the extent of nonprogram use. Although even more specificity on substantiality might be desirable, the Secretary believes it is preferable to have that arise from case-by-case analysis rather than initial regulatory prescription. The Secretary is willing to give advance advice on particular situations in which there may be uncertainty.

Finally, although there was no formal comment to this effect, the Secretary understands that there may be some misunderstanding of the effect of the amendment when a guaranty agency makes a correct cost allocation at the outset. The statement in the NPRM (59 FR 41186) that subsequent events would be governed by the recorded ownership interest of the asset obviously assumes that the recordation is consistent with the cost allocation. A guaranty agency may not allocate substantial costs to the reserve fund and then not give it credit for a proportionate ownership interest in the asset.

Changes: None.

Section 682.417 Determination of Reserve Funds or Assets To Be Returned

Section 682.417(b) Return of Unnecessary Reserve Funds

Comments: One commenter requested that the Secretary analyze the economic impact of OBRA on guaranty agencies before requiring the return of any reserves. Another commenter urged that the Secretary consider 10-year rather than five-year projections in determining whether a guaranty agency has "unnecessary" reserves to be returned. Other commenters questioned the sufficiency of the 60 days provided for the agency to provide the projections.

Discussion: Requiring a complete analysis of the economic impact of OBRA before allowing the use of the Secretary's new power under section 422(g)(1)(A) of the HEA would be the practical equivalent of delaying the effective date of the implementing regulation. The issue of the first Federal fiscal year in which reserves could be called back under this new rule was thoroughly discussed at the negotiated rulemaking proceeding. The Secretary's position that the rule should not be delayed beyond July 1, 1995, was ultimately accepted as part of the overall consensus. By that time actual data will be available on the impact of the profit margin reductions resulting

from various changes made to the HEA by OBRA and on the first academic year of the Direct Loan Program. OBRA's future impact will be assessed through the agencies' projections for the 1995 and next four Federal fiscal years. The Secretary considers the assumptions necessary for 10-year projections, however, such as aggregate student loan volume and general rates of interest and inflation, to be too unreliable to be used as a basis for decision. This issue was specifically discussed at the negotiated rulemaking proceeding, and five years was agreed upon as the term for the projections. Finally, since the guaranty agency should already have provided the Secretary with projections under the new data collection program, 60 days should be ample time to supplement them for this purpose.

Changes: None.

Section 682.417(c) Notice

Comments: One commenter suggested that a guaranty agency should be able to request additional information if the notice initiating a proceeding for the return of reserve funds or assets does not contain sufficient information for it to prosecute its appeal. Another asked that any protective order under paragraph (c)(2)(v) not be allowed to endanger its daily operations in the absence of fraud or abuse.

Discussion: No specific procedure is necessary for a party to request additional information from the Secretary. If the information is in fact necessary, the notice directing the return would be defective if the information were not provided. Since any protective order would only affect reserves to the extent that they had already been determined to be "unnecessary," it is hard to understand how it could endanger the agency's daily operations. In any event, the deciding official could expedite this aspect of any appeal.

Changes: None.

Section 682.417(d) Appeal

Comments: One commenter expressly agreed with the appeal procedure included in the proposed rule, while another requested that the appeal be heard by a neutral third-party arbitrator.

Discussion: The latter commenter misunderstands the nature of the appeal process. This is not a quasi-judicial administrative proceeding. The appeal is merely an opportunity for the guaranty agency to have the authorized Departmental official's action reviewed by a superior or peer within the Department. It would be inappropriate to place the Department's responsibility on an outside decisionmaker.

Changes: None.

Section 682.417(e) Third-Party Participation

Comments: One commenter requested the Secretary to delete the provision for third-party participation in appeals, or at least to specify the information that third parties may provide.

Discussion: Third-party participation was an important component of the consensus reached at the negotiated rulemaking proceeding. Students, schools, and lenders are the parties most affected by the financial condition of guaranty agencies, and they should not be denied an opportunity to provide information in these proceedings. The Secretary does not believe that it is appropriate to limit the information that third parties may provide.

Changes: None.

Section 682.417(f) Adverse Information

Comments: Two commenters requested that all third-party information be provided to the guaranty agency without a formal request under the Freedom of Information Act (FOIA), not just adverse information considered by the deciding official.

Discussion: This matter was also discussed at the negotiated rulemaking proceeding, and the guaranty agency negotiators agreed that the agencies would usually already be aware of any favorable information that was submitted by third parties. In any event, under § 682.417(e)(2) all information submitted by third parties is available for public inspection and copying. No formal FOIA request is necessary.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering the Title IV, HEA programs effectively and efficiently. Burdens specifically associated with information collection requirements were identified and justified in the NPRM.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of these regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.032, Federal Family Education Loan Program.)

Dated: November 18, 1994.

Richard W. Riley,
Secretary of Education.

The Secretary amends part 682 of title 34 of the Code of Federal Regulations as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAMS

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087-2, unless otherwise noted.

2. Section 682.410(a) is revised, and the OMB control number is republished to read as follows:

§ 682.410 Fiscal, administrative, and enforcement requirements.

(a) *Fiscal requirements* (1) *Reserve fund assets.* A guaranty agency shall establish and maintain a reserve fund to be used solely for its activities as a guaranty agency under the FFEL Program ("guaranty activities"). The guaranty agency shall credit to the reserve fund—

- (i) The total amount of insurance premiums collected;
- (ii) Funds received from a State for the agency's guaranty activities, including matching funds under section 422(a) of the Act;
- (iii) Federal advances obtained under sections 422(a) and (c) of the Act;

(iv) Federal payments for default, bankruptcy, death, disability, closed schools, and false certification claims;

(v) Supplemental preclaims assistance payments;

(vi) Administrative cost allowance payments received under § 682.407 and transitional support payments received under section 458(a) of the Act;

(vii) Funds collected by the guaranty agency on FFEL Program loans on which a claim has been paid;

(viii) Investment earnings on the reserve fund; and

(ix) Other funds received by the guaranty agency from any source for the agency's guaranty activities.

(2) *Uses of reserve fund assets.* A guaranty agency may use the assets of the reserve fund established under paragraph (a)(1) of this section to pay only—

(i) Insurance claims;

(ii) Operating costs for the agency's guaranty activities, including payments necessary in collecting loans, providing preclaims assistance, monitoring enrollment and repayment status, and carrying out any other guaranty activities;

(iii) Lenders for their participation in a loan referral service under section 428(e) of the Act;

(iv) The Secretary's equitable share of collections;

(v) Federal advances and other funds owed to the Secretary;

(vi) Reinsurance fees;

(vii) Insurance premiums related to cancelled loans;

(viii) Borrower refunds, including those arising out of student or other borrower claims and defenses;

(ix) (A) The repayment, on or after December 29, 1993, of amounts credited under paragraphs (a)(1)(ii) or (a)(1)(ix) of this section, if the agency provides the Secretary 30 days prior notice of the repayment and demonstrates that—

(1) These amounts were originally received by the agency under appropriate contemporaneous documentation specifying that receipt was on a temporary basis only;

(2) The objective for which these amounts were originally received by the agency has been fully achieved; and

(3) Repayment of these amounts would not cause the agency to fail to comply with the minimum reserve levels provided by paragraph (a)(10) of this section, except that the Secretary may, for good cause, provide written permission for a payment that meets the other requirements of this paragraph (a)(2)(ix)(A).

(B) The repayment, prior to December 29, 1993, of amounts credited under paragraphs (a)(1)(ii) or (a)(1)(ix) of this

section, if the agency demonstrates that—

(1) These amounts were originally received by the agency under appropriate contemporaneous documentation that receipt was on a temporary basis only; and

(2) The objective for which these amounts were originally received by the agency has been fully achieved.

(x) Any other payments necessary to perform functions directly related to the agency's guaranty activities and for their proper administration;

(xi) Notwithstanding any other provision of this section, any other payment that was allowed by law or regulation at the time it was made, if the agency acted in good faith when it made the payment or the agency would otherwise be unfairly prejudiced by the nonallowability of the payment at a later time; and

(xii) Any other amounts authorized or directed by the Secretary.

(3) *Accounting basis.* Except as approved by the Secretary, a guaranty agency shall credit the items listed in paragraph (a)(1) of this section to its reserve fund upon their receipt, without any deferral for accounting purposes, and shall deduct the items listed in paragraph (a)(2) of this section from its reserve fund upon their payment, without any accrual for accounting purposes.

(4) *Accounting records.* (i) The accounting records of a guaranty agency must reflect the correct amount of sources and uses of funds under paragraph (a) of this section.

(ii) A guaranty agency may reverse prior credits to its reserve fund if—

(A) The agency gives the Secretary prior notice setting forth a detailed justification for the action;

(B) The Secretary determines that such credits were made erroneously and in good faith; and

(C) The Secretary determines that the action would not unfairly prejudice other parties.

(iii) A guaranty agency shall correct any other errors in its accounting or reporting as soon as practicable after the errors become known to the agency.

(iv) If a general reconstruction of a guaranty agency's historical accounting records is necessary to make a change under paragraphs (a)(4)(ii) and (a)(4)(iii) of this section or any other retroactive change to its accounting records, the agency may make this reconstruction only upon prior approval by the Secretary and without any deduction from its reserve fund for the cost of the reconstruction.

(5) *Investments.* The guaranty agency shall exercise the level of care required

of a fiduciary charged with the duty of investing the money of others when it invests the assets of the reserve fund described in paragraph (a)(1) of this section. It may invest these assets only in low-risk securities, such as obligations issued or guaranteed by the United States or a State.

(6) *Development of assets.* (i) If the guaranty agency uses in a substantial way for purposes other than the agency's guaranty activities any funds required to be credited to the reserve fund under paragraph (a)(1) of this section or any assets derived from the reserve fund to develop an asset of any kind and does not in good faith allocate a portion of the cost of developing and maintaining the developed asset to funds other than the reserve fund, the Secretary may require the agency to—

(A) Correct this allocation under paragraph (a)(4)(iii) of this section; or
(B) Correct the recorded ownership of the asset under paragraph (a)(4)(iii) of this section so that—

(1) If, in a transaction with an unrelated third party, the agency sells or otherwise derives revenue from uses of the asset that are unrelated to the agency's guaranty activities, the agency promptly shall deposit into the reserve fund described in paragraph (a)(1) of this section a percentage of the sale proceeds or revenue equal to the fair percentage of the total development cost of the asset paid with the reserve fund monies or provided by assets derived from the reserve fund; or

(2) If the agency otherwise converts the asset, in whole or in part, to a use unrelated to its guaranty activities, the agency promptly shall deposit into the reserve fund described in paragraph (a)(1) of this section a fair percentage of the fair market value or, in the case of a temporary conversion, the rental value of the portion of the asset employed for the unrelated use.

(ii) If the agency uses funds or assets described in paragraph (a)(6)(i) of this section in the manner described in that paragraph and makes a cost and maintenance allocation erroneously and in good faith, it shall correct the allocation under paragraph (a)(4)(iii) of this section.

(7) *Third-party claims.* If the guaranty agency has any claim against any other party to recover funds or other assets for the reserve fund, the claim is the property of the United States.

(8) *Related-party transactions.* All transactions between a guaranty agency and a related organization or other person that involve funds required to be credited to the agency's reserve fund under paragraph (a)(1) of this section or assets derived from the reserve fund

must be on terms that are not less advantageous to the reserve fund than would have been negotiated on an arm's-length basis by unrelated parties.

(9) *Scope of definition.* The provisions of this § 682.410(a) define reserve funds and assets for purposes of sections 422 and 428 of the Act. These provisions do not, however, affect the Secretary's authority to use all funds and assets of the agency pursuant to section 428(c)(9)(F)(vi) of the Act.

(10) *Minimum reserve fund level.* The guaranty agency must maintain a current minimum reserve level of not less than—

(i) .5 percent of the amount of loans outstanding, for the fiscal year of the agency that begins in calendar year 1993;

(ii) .7 percent of the amount of loans outstanding, for the fiscal year of the agency that begins in calendar year 1994;

(iii) .9 percent of the amount of loans outstanding, for the fiscal year of the agency that begins in calendar year 1995; and

(iv) 1.1 percent of the amount of loans outstanding, for each fiscal year of the agency that begins on or after January 1, 1996.

(11) *Definitions.* For purposes of this section—

(i) *Reserve fund level means—*

(A) The total of reserve fund assets as defined in paragraph (a)(1) of this section;

(B) Minus the total amount of the reserve fund assets used in accordance with paragraphs (a)(2) and (a)(3) of this section; and

(ii) *Amount of loans outstanding means—*

(A) The sum of—

(1) The original principal amount of all loans guaranteed by the agency; and

(2) The original principal amount of any loans on which the guarantee was transferred to the agency from another guarantor, excluding loan guarantees transferred to another agency pursuant to a plan of the Secretary in response to the insolvency of the agency;

(B) Minus the original principal amount of all loans on which—

(1) The loan guarantee was cancelled;

(2) The loan guarantee was transferred to another agency;

(3) Payment in full has been made by the borrower;

(4) Reinsurance coverage has been lost and cannot be regained; and

(5) The agency paid claims.

* * * * *

(Approved by the Office of Management and Budget under Control Number 1840-0538)

3. A new § 682.417 is added to subpart D to read as follows:

§ 682.417 *Determination of reserve funds or assets to be returned.*

(a) *General.* The procedures described in this section apply to a determination by the Secretary that—

(1) A guaranty agency must return to the Secretary a portion of its reserve funds which the Secretary has determined is unnecessary to pay the program expenses and contingent liabilities of the agency; and

(2) A guaranty agency must require the return to the agency or the Secretary of reserve funds or assets within the meaning of section 422(g)(1) of the Act held by or under the control of any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the agency or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

(b) *Return of unnecessary reserve funds.* (1) The Secretary may initiate a process to recover unnecessary reserve funds under paragraph (a)(1) of this section if the Secretary determines that a guaranty agency's reserve fund ratio under § 682.410(a)(10) for each of the two preceding Federal fiscal years exceeded 2.0 percent.

(2) If the Secretary initiates a process to recover unnecessary reserve funds, the Secretary requires the return of a portion of the reserve funds that the Secretary determines will permit the agency to—

(i) Have a reserve fund ratio of at least 2.0 percent under § 682.410(a)(10) at the time of the determination; and

(ii) Meet the minimum reserve fund requirements under § 682.410(a)(10) and retain sufficient additional reserve funds to perform its responsibilities as a guaranty agency during the current Federal fiscal year and the four succeeding Federal fiscal years.

(3)(i) The Secretary makes a determination of the amount of the reserve funds needed by the guaranty agency under paragraph (b)(2) of this section on the basis of financial projections for the period described in that paragraph. If the agency provides projections for a period longer than the period referred to in that paragraph, the Secretary may consider those projections.

(ii) The Secretary may require a guaranty agency to provide financial projections in a form and on the basis of assumptions prescribed by the Secretary. If the Secretary requests the agency to provide financial projections, the agency shall provide the projections within 60 days of the Secretary's request. If the agency does not provide the projections within the specified time

period, the Secretary determines the amount of reserve funds needed by the agency on the basis of other information.

(c) *Notice.* (1) The Secretary or an authorized Departmental official begins a proceeding to order a guaranty agency to return a portion of its reserve funds, or to direct the return of reserve funds or assets subject to return, by sending the guaranty agency a notice by certified mail, return receipt requested.

(2) The notice—

(i) Informs the guaranty agency of the Secretary's determination that the reserve funds or assets must be returned;

(ii) Describes the basis for the Secretary's determination and contains sufficient information to allow the guaranty agency to prepare and present an appeal;

(iii) States the date by which the return of reserve funds or assets must be completed;

(iv) Describes the process for appealing the determination, including the time for filing an appeal and the procedure for doing so; and

(v) Identifies any actions that the guaranty agency must take to ensure that the reserve funds or assets that are the subject of the notice are maintained and protected against use, expenditure, transfer, or other disbursement after the date of the Secretary's determination, and the basis for requiring those actions. The actions may include, but are not limited to, directing the agency to place the reserve funds in an escrow account. If the Secretary has directed the guaranty agency to require the return of reserve funds or assets held by or under the control of another entity, the guaranty agency shall ensure that the agency's claims to those funds or assets and the collectability of the agency's claims will not be compromised or jeopardized during an appeal. The guaranty agency shall also comply with all other applicable regulations relating to the use of reserve funds and assets.

(d) *Appeal.* (1) A guaranty agency may appeal the Secretary's determination that reserve funds or assets must be returned by filing a written notice of appeal within 20 days of the date of the guaranty agency's receipt of the notice of the Secretary's determination. If the agency files a notice of appeal, the requirement that the return of reserve funds or assets be completed by a particular date is suspended pending completion of the appeal process. If the agency does not file a notice of appeal within the period specified in this paragraph, the Secretary's determination is final.

(2) A guaranty agency shall submit the information described in paragraph (d)(4) of this section within 45 days of the date of the guaranty agency's receipt of the notice of the Secretary's determination unless the Secretary agrees to extend the period at the agency's request. If the agency does not submit that information within the prescribed period, the Secretary's determination is final.

(3) A guaranty agency's appeal of a determination that reserve funds or assets must be returned is considered and decided by a Departmental official other than the official who issued the determination or a subordinate of that official.

(4) In an appeal of the Secretary's determination, the guaranty agency shall—

(i) State the reasons the guaranty agency believes the reserve funds or assets need not be returned;

(ii) Identify any evidence on which the guaranty agency bases its position that the reserve funds or assets need not be returned;

(iii) Include copies of the documents that contain this evidence;

(iv) Include any arguments that the guaranty agency believes support its position that the reserve funds or assets need not be returned; and

(v) Identify the steps taken by the guaranty agency to comply with the requirements referred to in paragraph (c)(2)(v) of this section.

(5)(i) In its appeal, the guaranty agency may request the opportunity to make an oral argument to the deciding official for the purpose of clarifying any issues raised by the appeal. The deciding official provides such an opportunity promptly after the expiration of the period referred to in paragraph (d)(2) of this section.

(ii) The agency may not submit new evidence at or after the oral argument unless the deciding official determines otherwise. A transcript of the oral argument is made a part of the record of the appeal and is promptly provided to the agency.

(6) The guaranty agency has the burden of production and the burden of persuading the deciding official that the Secretary's determination should be modified or withdrawn.

(e) *Third-party participation.* (1) If the Secretary issues a determination under paragraph (a)(1) of this section, the Secretary promptly publishes a notice in the **Federal Register** announcing the portion of the reserve fund to be returned by the agency and providing interested persons an opportunity to submit written information relating to the determination within 30 days after

the date of publication. The Secretary publishes the notice no earlier than five days after the agency receives a copy of the determination.

(2) If the guaranty agency to which the determination relates files a notice of appeal of the determination, the deciding official may consider any information submitted in response to the **Federal Register** notice. All information submitted by a third party is available for inspection and copying at the offices of the Department of Education in Washington, D.C., during normal business hours.

(f) *Adverse information.* If the deciding official considers information in addition to the evidence described in the notice of the Secretary's determination that is adverse to the guaranty agency's position on appeal, the deciding official informs the agency and provides it a reasonable opportunity to respond to the information without regard to the period referred to in paragraph (d)(2) of this section.

(g) *Decision.* (1) The deciding official issues a written decision on the guaranty agency's appeal within 45 days of the date on which the information described in paragraph (d)(4) and (d)(5)(ii) of this section is received, or the oral argument referred to in paragraph (d)(5) of this section is held, whichever is later. The deciding official mails the decision to the guaranty agency by certified mail, return receipt requested. The decision of the deciding official becomes the final decision of the Secretary 30 days after the deciding official issues it. In the case of a determination that a guaranty agency must return reserve funds, if the deciding official does not issue a decision within the prescribed period, the agency is no longer required to take the actions described in paragraph (c)(2)(v) of this section.

(2) A guaranty agency may not seek judicial review of the Secretary's determination to require the return of reserve funds or assets until the deciding official issues a decision.

(3) The deciding official's written decision includes the basis for the decision. The deciding official bases the decision only on evidence described in the notice of the Secretary's determination and on information properly submitted and considered by the deciding official under this section. The deciding official is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(h) *Collection of reserve funds or assets.* (1) If the deciding official's final decision requires the guaranty agency to return reserve funds, or requires the

guaranty agency to require the return of reserve funds or assets to the agency or to the Secretary, the decision states a new date for compliance with the decision. The new date is no earlier than the date on which the decision becomes the final decision of the Secretary.

(2) If the guaranty agency fails to comply with the decision, the Secretary may recover the reserve funds from any funds due the agency from the Department without any further notice or procedure and may take any other action permitted or authorized by law to compel compliance.

(Authority: 20 U.S.C. 1072(g)(1))

(Approved by the Office of Management and Budget under Control Number 1840-0538)

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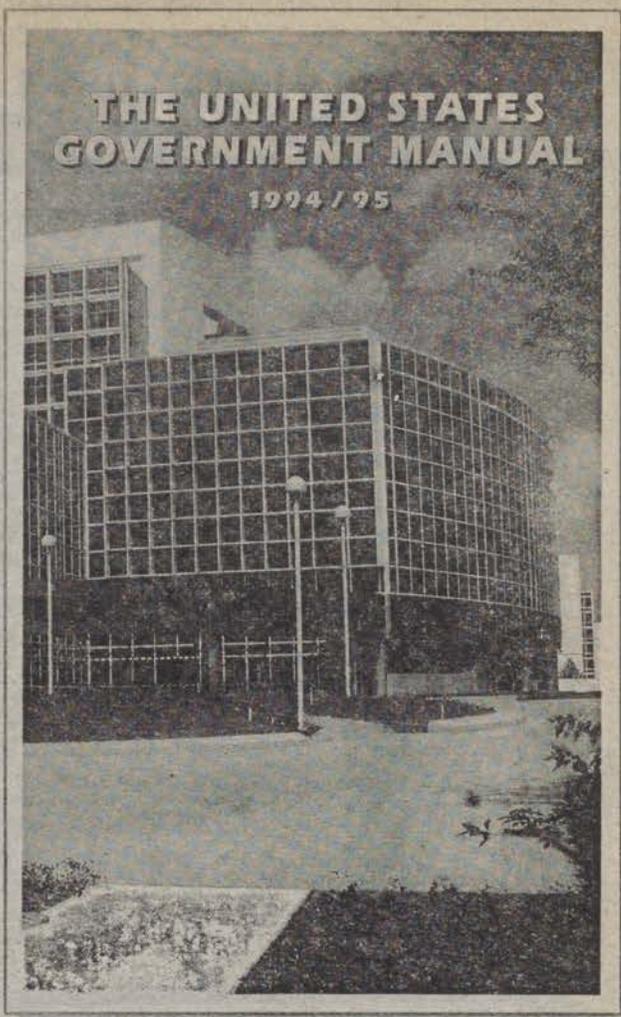
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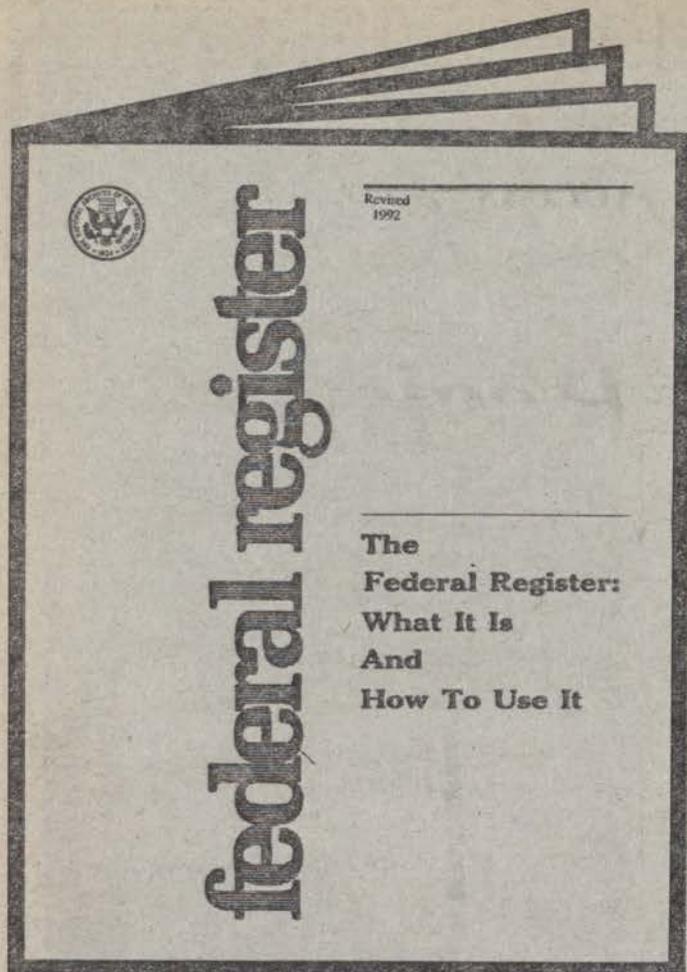
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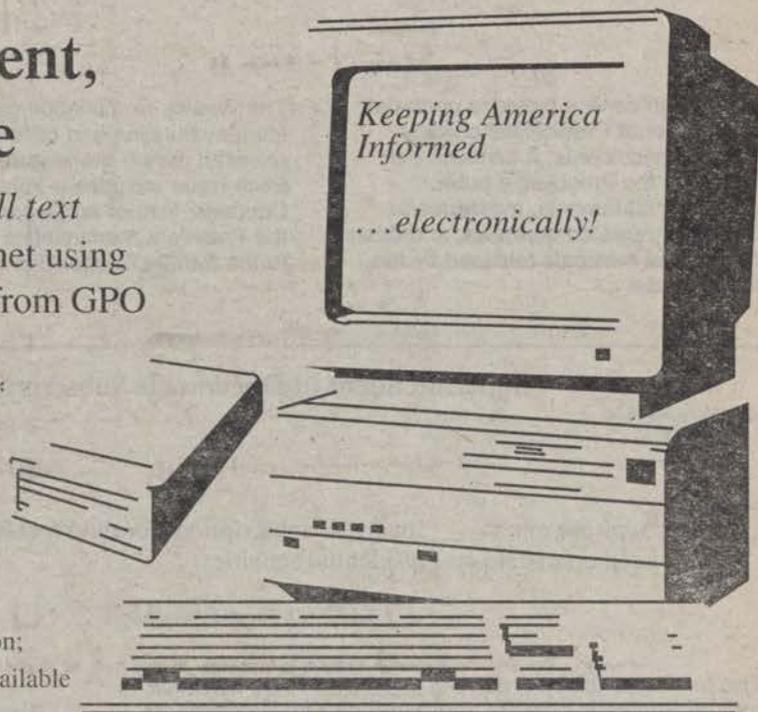
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