4–6–95
Vol. 60 No. 66
Pages 17433–17624

Federal Register

Thursday
April 6, 1995

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, and Salt Lake City, UT, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. It is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. The annual subscription fee for a single workstation is $375. Six-month subscriptions are available for $200 and one month of access can be purchased for $35. Discounts are available for multiple-workstation subscriptions. To subscribe, Internet users should telnet to swais.access.gpo.gov and login as newuser (all lower case); no password is required. Dial-in users should use communications software and modem to call (202) 512–1661 and login as swais (all lower case); no password is required; at the second login prompt, login as newuser (all lower case); no password is required. Follow the instructions on the screen to register for a subscription for the **Federal Register** Online via *GPO Access.* For assistance, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids.gpo.gov, or a fax to (202) 512–1262, or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $494, or $544 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**

Online:

Telnet swais.access.gpo.gov, login as newuser <enter>, no password <enter>; or use a modem to call (202) 512–1661, login as swais, no password <enter>, at the second login as newuser <enter>, no password <enter>.

Assistance with online subscriptions	**202–512–1530**

Single copies/back copies:

Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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: April 20 at 9:00 am

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

SALT LAKE CITY, UT

WHEN: May 9 at 9:00 am

WHERE: State Office Building Auditorium
450 North Main Street
Salt Lake City, UT 84114

RESERVATIONS: 1–800–359–3997

Contents

Federal Register

Vol. 60, No. 66

Thursday, April 6, 1995

Separate Parts In This Issue

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
946.....17433
985.....17434
Proposed Rules:
981.....17466

12 CFR
208.....17436

13 CFR
107.....17438

14 CFR
39 (2 documents) 17438, 17440
71.....17442
Proposed Rules:
39 (2 documents) 17487, 17489

16 CFR
Proposed Rules:
409.....17491
460.....17492

20 CFR
404.....17443

21 CFR
310.....17611
Proposed Rules:
876.....17611

24 CFR
570.....17445

27 CFR
55.....17446
72.....17446
178.....17446
179.....17446
Proposed Rules:
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR
0.....17456

30 CFR
915.....17458
Proposed Rules:
902.....17495
904.....17498
906.....17501
915.....17504
916.....17504
918.....17498
925.....17504
926.....17495
931.....17501
934.....17495
936.....17498
943.....17498
944.....17501
950.....17495

32 CFR
Proposed Rules:
63.....17507

40 CFR
Proposed Rules:
51.....17509
58.....17509
86.....17509
761.....17510

50 CFR
655.....17464
672.....17465
Proposed Rules:
641.....17511
675.....17512

Rules and Regulations

Federal Register
Vol. 60, No. 66
Thursday, April 6, 1995

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV95–946–1IFR]

Irish Potatoes Grown in Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 946 for the 1995–96 fiscal period. Authorization of this budget enables the State of Washington Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by May 8, 1995, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, Washington potatoes are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes handled during the 1995–96 fiscal period, which begins July 1, 1995, and ends June 30, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 450 producers of Washington potatoes under this marketing order, and approximately 50 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995–96 fiscal period was prepared by the State of Washington Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Washington potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

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

The Committee met February 22, 1995, and unanimously recommended a 1995–96 budget of $42,300, $4,200 more than the previous year. Budget items for 1995–96 which have increased compared to those budgeted for 1994–95 (in parentheses) are: Miscellaneous, $2,000 ($1,500), audit, $1,500 ($1,000), and compliance audits, $6,000 ($5,200).

The Committee also recommended workman's compensation tax expenses of $400 for which no funding was recommended last year and $17,400 for an agreement with the Washington State Potato Commission to provide certain services to the Committee as specified in the agreement. Included in the $17,400 for this year are salaries and salary expenses which were budgeted separately last year at $11,200 and $1,800 and other expenses which were $2,400 for last year. In this year's budget, these items are included under the Commission agreement.

The Committee also unanimously recommended an assessment rate of $0.003 per hundredweight, $0.002 less than last season. This rate, when applied to anticipated shipments of 9 million hundredweight, will yield $27,000 in assessment income. This, along with $15,300 from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve as of January 31, 1995, were $75,025, which is within the maximum permitted by the order of two fiscal periods' expenses.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal period begins on July 1, 1995, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period; (3) handlers are aware of this rule which was unanimously recommended by the Committee at a public meeting and is similar to other budget rules issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 946.247 is added to read as follows:

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

§ 946.247 Expenses and assessment rate.

Expenses of $42,300 by the State of Washington Potato Committee are authorized, and an assessment rate of $0.003 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: March 31, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–8425 Filed 4–5–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 985

[FV95–985–2IFR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1994–95 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

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

EFFECTIVE DATE: April 6, 1995; comments received by May 8, 1995 will be considered prior to issuance of a final rule.

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

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

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

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1994–95 marketing year, which ends on May 31, 1995. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

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

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

This rule increases the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1994–95 marketing year, which ends on May 31, 1995. This rule increases the salable quantity from 1,287,680 pounds to 1,358,404 pounds and the allotment percentage from 66 percent to 70 percent for Native spearmint oil for the 1994–95 marketing year.

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

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

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

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

At its October 5, 1994, meeting, the Committee recommended that the salable quantities for Scotch and Native spearmint oils for the 1994–95 marketing year be increased from 723,326 pounds to 811,516 pounds, and from 1,092,577 pounds to 1,287,680 pounds, respectively. Based on a revised total allotment base of 1,763,795 pounds, the Committee recommended that the allotment percentage for Scotch spearmint oil be increased from 41 percent to 46 percent, resulting in an 88,190 pound increase in the salable quantity. Further, based on the revised total allotment base published in the August 26, 1994, **Federal Register** (59 FR 44028), the Committee recommended that the allotment percentage for Native spearmint oil be increased from 56 percent to 66 percent, resulting in a 195,103 pound increase in the salable quantity.

An interim final rule amending the August 26, 1994, rule was published in the October 31, 1994, **Federal Register** (59 FR 54376). Comments on the interim rule were solicited from interested persons until November 30, 1994. No comments were received.

Accordingly, based upon an analysis of available information, a final rule finalizing the 1994–95 salable quantities and allotment percentages was published in the February 2, 1995, **Federal Register** (60 FR 6392).

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the order, at its February 22, 1995, meeting, the Committee recommended, with one member voting in opposition, that the salable quantity for Native spearmint oil for the 1994–95 marketing year be increased from 1,287,680 pounds to 1,358,404 pounds. The member voting in opposition favored the establishment of a lower salable quantity that would have resulted in a lower allotment percentage. Based on the revised total allotment base of 1,951,032 pounds, the allotment percentage for Native spearmint oil is increased from 66 percent to 70 percent, resulting in a 70,724 pound increase in the salable quantity.

Native Spearmint Oil Recommendations

(1) Salable Quantity

October 6, 1993	897,388 pounds
June 14, 1994	1,092,577 pounds
October 5, 1994	1,287,680 pounds

February 22, 1995 .....1,358,404 pounds
(2) Total Allotment Base
October 6, 1993 .....1,950,843 pounds
June 14, 1994.....1,951,032 pounds
October 5, 1994 .....1,951,032 pounds
February 22, 1995 .....1,951,032 pounds
(3) Allotment Percentage
October 6, 1993 .....46 percent
June 14, 1994.....56 percent
October 5, 1994 .....66 percent
February 22, 1995 .....70 percent

In making this latest recommendation the Committee considered all available information on supply and demand.

As of February 22, 1995, the Committee reports that of the 1994–95 marketing year Scotch and Native spearmint oil salable quantities of 811,516 pounds and 1,287,680 pounds, respectively, 154,375 pounds and 70,840 pounds remained available for handling. Handlers have indicated that the available supply of Scotch spearmint oil is adequate to meet anticipated demand through May 31, 1995. However, handlers have indicated that demand for Native spearmint oil may be as high as 100,000 pounds for the remainder of this marketing year. This level of demand was not anticipated by the Committee when it made its initial recommendation for the establishment of the Scotch and Native spearmint oil salable quantities and allotment percentages for the 1994–95 marketing year, nor was it foreseen when the Committee made its June 14 and October 5, 1994, recommendations for increasing the Native spearmint oil salable quantity and allotment percentage.

The recommended salable quantity of 1,358,404 pounds of Native spearmint oil (an increase of 70,724 pounds), combined with the June 1, 1994, carry-in of 19,139 pounds, results in a revised 1994–95 available supply of 1,377,543 pounds. The revised available supply of Native spearmint oil is approximately 300,000 pounds higher than the annual average of sales for the past five years. The Committee anticipates that foreseeable demand for Native spearmint oil will be adequately met for the remainder of the 1994–95 marketing year.

The Department, based on its analysis of available information, has determined that an allotment percentage of 70 percent should be established for Native spearmint oil for the 1994–95 marketing year. This percentage will provide an increased salable quantity of 1,358,404 pounds of Native spearmint oil.

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

After consideration of all relevant matter presented, including that contained in the prior proposed, final, and interim final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1994–95 marketing year, the Committee's recommendation and other available information, it is found that to revise section 985.213 (60 FR 6392) to change the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule increases the quantity of Native spearmint oil that may be marketed immediately; (2) Handlers and producers should be apprised as soon as possible of the salable quantity and allotment percentage of Native spearmint oil contained in this interim final rule; and (3) This rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

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

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

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

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

Authority: 7 U.S.C. 601–674.

2. Section 985.213 is amended by revising the introductory text and paragraph (b) to read as follows:

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

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

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1994, shall be as follows:

* * * * *

(b) Class 3 (Native) oil—a salable quantity of 1,358,404 pounds and an allotment percentage of 70 percent.

Dated: March 31, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–8426 Filed 4–5–95; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R–0873]

Membership of State Banking Institutions in the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; interpretation.

SUMMARY: The Board is issuing an interpretation of the provisions of its Regulation H, Membership of State Banking Institutions in the Federal Reserve System, concerning the establishment of loan production offices and ''back office'' facilities by state member banks. The interpretation provides that a state member bank may establish a back office facility that is not accessible to the public without such a facility being considered to be a branch. The interpretation also provides that loans originated by a loan production office may be approved at a back office location, rather than at the main office or a branch of the bank, without the loan production office being considered to be a branch, if the proceeds of loans originated by the loan production office are received by customers at locations other than a loan production office or back office facility. This interpretation is intended to provide parity between state member banks and national banks with respect to the establishment of loan production offices and back office facilities.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Lawranne Stewart, Senior Attorney (202/452–3513), Legal Division. For the hearing impaired *only*:, Telecommunications Device for the Deaf (''TDD''), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: In connection with the acquisition of a mortgage company by a state member bank, the Board has been asked to consider two issues with respect to the types of facilities that a state member bank may establish to engage in activities related to lending at locations that are not approved branches: (1) Whether a state member bank may establish a ''back office'' facility that is not accessible to the public without

such a facility being considered to be a branch of the bank; and (2) whether a loan production office will be considered to be a branch of the bank if it takes loan applications and performs related functions, but the loans are approved at locations other than an approved branch or main office of the bank. Under the Board's prior interpretation concerning loan production offices, published at 12 CFR 250.141, an office that engaged in loan origination activities was not considered to be a branch when the loans were approved and funds disbursed at the head office or a branch of the bank. ''Back office'' facilities that are not accessible to the public were not addressed in the prior interpretation.

State member banks are subject to the same limitations on branching as national banks.[1] Under the McFadden Act, national banks may establish branches only at locations at which a state bank would be permitted to establish a branch.[2] Interpreting the branching restrictions of the McFadden Act, the Supreme Court has stated that the purpose of the McFadden Act was to maintain competitive equality between national and state banks, and that the determination as to whether a facility was a branch must be based on the convenience of the customer, rather than on the technical or legal relationship between the customer and the bank.[3] In later cases addressing automated teller machines, the courts generally have rejected arguments that money is lent at the time and place where a loan or line of credit is approved, and instead found that money is lent for the purposes of the McFadden Act when the customer actually receives the funds and interest begins to run on the loan.[4]

The Board previously had determined that an office engaged in preliminary or servicing functions, such as soliciting loan applications and assembling credit information, is not lending money and therefore is not a ''branch'' for the purposes of the McFadden Act if the loans originated by the office are approved and the funds disbursed at the main office or an approved branch of the bank.[5] Whether a loan production office should be considered to be a branch if loans originated by the office are approved at locations other than the main office or a branch of the bank therefore depends on whether the location where loan approval takes place enhances the convenience to the customer and therefore provides a competitive advantage to the bank.

Back office facilities that are not accessible to the public are not visited by customers and do not appear to provide customers of the bank with any greater level of convenience. From the point of view of a customer whose loan has been originated at a loan production office, there does not appear to be any difference in the convenience based on whether the loan is approved at the back office facility or at a branch of a bank, as it is unlikely that the customer will visit either location.

Accordingly, the Board has concluded that, insofar as federal law is concerned, a state member bank may establish a back office facility without such a facility being considered to be a branch. The Board also has determined that loans originated by a loan production office may be approved at a back office location, rather than at the main office or a branch of the bank, without the loan production office being considered to be a branch under federal law, if the proceeds of loans originated by the loan production office are received by the customer at locations other than a loan production office or back office facility. This interpretation supersedes those portions of the Board's prior interpretation, published at 12 CFR 250.141, that concern loan production offices.

Administrative Procedures and Regulatory Flexibility Acts

The provisions of the Administrative Procedures Act concerning notice and comment are not applicable to interpretative rules. 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, a statement concerning the effects of the rule on small entities is also not required under the Regulatory Flexibility Act. 5 U.S.C. 604. The Board notes, however, that the interpretation provides greater flexibility to state member banks of all sizes in structuring their activities.

List of Subjects in 12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, 12 CFR part 208 is amended as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1, and w; 31 U.S.C. 5318.

2. In Subpart E, § 208.123 is added in numerical order to read as follows:

§ 208.123 Loan production offices and ''back office'' facilities.

(a) *Scope.* The Board has considered two issues:

(1) Whether a state member bank may establish a ''back office'' facility that is not accessible to the public and is not visited by customers without such a facility being considered to be a branch of the bank; and

(2) Whether a loan production office will be considered to be a branch of the bank if it takes loan applications and performs related functions, but the loans are approved at locations other than an approved branch or main office of the bank and funds are not disbursed at the loan production office.

(b) *Authority.* State member banks are subject to the same limitations on branching as national banks. Federal Reserve Act, section 9, paragraph 3 (12 U.S.C. 321). Under the McFadden Act (44 Stat. 1228), national banks may establish branches within a state only at locations at which a state bank would be permitted to establish a branch. 12 U.S.C. 36(c). For the purposes of the McFadden Act, ''branch'' is defined to include ''any branch bank, branch office, branch agency, additional office, or any branch place of business * * * at which deposits are received, or checks are paid, or money lent.'' 12 U.S.C. 36(f). Interpreting the branching restrictions of the McFadden Act, the Supreme Court has stated that the purpose of the McFadden Act was to

---

[1] Federal Reserve Act, section 9, paragraph 3 (12 U.S.C. 321); Regulation H, § 208.9 (12 CFR 208.9).

[2] 12 U.S.C. 36(c). Under the McFadden Act, ''branch'' is defined to include ''any branch bank, branch office, branch agency, additional office, or any branch place of business . . . at which deposits are received, or checks are paid, or money lent.'' 12 U.S.C. 36(f).

[3] *First National Bank of Plant City v. Dickinson,* 396 U.S. 122 (1969).

[4] *E.g., IBAA v. Smith,* 534 F.2d 921 (D.C. Cir. 1976); *Colorado ex rel. State Bank Brd. v. First Nat'l Bank,* 540 F. 2d 497 (10th Cir. 1976); *Illinois v. Continental Illinois NT&SA,* 409 F. Supp. 1167 (N.D. Ill. 1975), aff'd in relevant part, 536 F.2d 176 (7th Cir. 1976), cert. denied, 429 U.S. 871 (1976). Only one federal district court case stands in which the court concluded that a loan is made at the time that the bank and its customer reach agreement on the terms of the loan, and not at a location where only the proceeds of the loan are disbursed. *See Oklahoma ex. rel. State Banking Board v. Utica Nat'l Bank and Trust,* 409 F. Supp. 71 (N.D. Okla. 1975). This decision was criticized in each of the appellate court opinions that have addressed this issue.

[5] 12 CFR 250.141

maintain competitive equality between national and state banks, and that the determination as to whether a facility was a branch must be based on the convenience of the customer, rather than on the technical or legal relationship between the customer and the bank. In later cases addressing automated teller machines, the courts generally have rejected arguments that money is lent at the time and place where a loan or line of credit is approved, and instead found that money is lent for the purposes of the McFadden Act when the customer actually receives the funds and interest begins to run on the loan. *See, e.g., IBAA* v. *Smith,* 534 F.2d 921 (D.C. Cir. 1976).

(c) *Interpretation.* The Board previously had determined that an office engaged in preliminary or servicing functions is not lending money and therefore is not a ''branch'' for the purposes of the McFadden Act if the loans originated by the office are approved and the funds disbursed at the main office or an approved branch of the bank. *See* 12 CFR 250.141. Whether a loan production office should be considered to be a branch if loans originated by the office are approved at locations other than the main office or a branch of the bank depends on whether the location where loan approval takes place enhances the convenience to the customer and therefore provides a competitive advantage to the bank. Back office facilities that are not accessible to the public are not visited by customers and do not appear to provide customers of the bank with any greater level of convenience. From the point of view of a customer whose loan has been originated at a loan production office, there does not appear to be any difference in the convenience based on whether the loan is approved at the back office facility or at a branch of a bank, as it is unlikely that the customer will visit either location. Based on this analysis, the Board has concluded that a state member bank may establish a back office facility without such a facility being considered to be a branch for the purposes of the McFadden Act. The Board also has determined that loans originated by a loan production office may be approved at a back office location, rather than at the main office or a branch of the bank, without the loan production office being considered to be a branch, provided that the proceeds of loans originated by the loan production office are received by the customer at locations other than a loan production office or back office facility. This interpretation supersedes the Board's prior interpretation, published at 12 CFR 250.141, as it applies to loan production offices.

By order of the Board of Governors of the Federal Reserve System, March 31, 1995.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 95–8404 Filed 4–5–95; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Accounting and Financial Reporting Standards

AGENCY: Small Business Administration.

ACTION: Interim final rule; reopening of comment period.

SUMMARY: On February 7, 1995, the Small Business Administration (SBA) published an interim final rule which updated the standards for accounting and financial reporting by Small Business Investment Companies (SBICs), as well as the guidelines for independent public accountants performing audits of SBIC financial statements. The interim final rule established a final date for comments to be submitted to SBA of March 9, 1995. SBA is reopening that comment period until April 30, 1995.

DATES: Written comments must be received on or before April 30, 1995.

ADDRESSES: Written comments should be sent to Robert D. Stillman, Associate Administrator for Investment, Small Business Administration, Suite 6300, 409 3rd Street SW., 6th floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, Office of Program Support; telephone no. (202) 205–7559.

SUPPLEMENTARY INFORMATION: SBA published an interim final rule on February 7, 1995 (60 FR 7392) which updated and reorganized the accounting standards for the SBIC program. The purpose of the revisions was to reflect recent changes in the SBIC program mandated by the Small Business Investment Act of 1958, as amended, as well as changes in generally accepted accounting principles.

The publication of the interim final rule took place at a time when many SBICs were in the midst of preparing their audited year end financial statements. Thus, a number of SBICs and their independent public accountants may not have had sufficient time to review the rule and to prepare and submit comments to SBA. Therefore, the comment period is hereby reopened and SBA will accept comments on the interim final rule until April 30, 1995.

Dated: March 31, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–8475 Filed 4–5–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–32–AD; Amendment 39–9185; AD 95–06–51]

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95–06–51 that was sent previously to all known U.S. owners and operators of Lockheed Model L–1011–385 series airplanes by individual telegrams. This AD requires inspection to detect corrosion, severed braided strands, or fuel leakage of the fuel feed line hose assembly on engine number two; and subsequent inspection or replacement of the fuel hose with a serviceable part, if necessary. This AD also requires treatment of the ends of the fuel hose and modification of the heat-shrunk plastic cover and steel identification band area. This amendment is prompted by a report of failure of an aluminum-braided flexible fuel hose on a Model L–1011–385 series airplane due to corrosion. The actions specified by this AD are intended to prevent failure of a flexible fuel hose, which could result in failure of an engine, loss of fuel, and a resultant fire.

DATES: Effective April 21, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–51, issued March 9, 1995, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 21, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–32–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maddie Miguel, Aerospace Engineer, Propulsion Branch, ACE–115A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7372; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION: On March 9, 1995, the FAA issued telegraphic AD T95–06–51, which is applicable to certain Lockheed Model L–1011–385 series airplanes. That action was prompted by a report of failure of an aluminum-braided flexible fuel hose on a Model L–1011–385 series airplane due to corrosion. This condition, if not corrected, could result in failure of an engine, loss of fuel, and a resultant fire.

The FAA received a report of failure of an aluminum-braided flexible fuel hose located immediately aft of the fuselage rear pressure bulkhead on a Model L–1011–385 series airplane. Ground maintenance personnel found a fuel leak when the airplane arrived at the gate after landing.

The operator performed a preliminary investigation of the fuel hose, and discovered that it was about 75 percent severed at a point approximately 7.0 inches from the inboard end. Inspection of the aluminum braiding in the area of the failure revealed that the braided strands were corroded and brittle. The corrosion occurred in an area of the stainless steel identification band, which has a translucent heat-shrunk plastic cover. The operator conducted subsequent inspections of its fleet and found two airplanes (out of a fleet of five airplanes) having corroded braided material in the area of the identification band. The cause of this corrosion has not been determined.

The FAA has reviewed and approved Lockheed Service Bulletin 093–28–A091, dated March 8, 1995, which describes procedures for a visual inspection to detect corrosion, severed braided strands, or fuel leakage of the fuel feed line hose assembly on engine number two; and inspections to detect ballooning of the fuel hose, or replacement of the fuel hose with a serviceable part, if necessary. The service bulletin also describes procedures for treatment of the ends of the hose, and modification of the heat-shrunk plastic cover and steel identification band area.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T95–06–51. The AD requires an inspection to detect corrosion, severed braided strands, or fuel leakage of the fuel feed line hose assembly on engine number two; and inspections to detect ballooning of the fuel hose, or replacement of the fuel hose with a serviceable part, if necessary. The AD also requires treatment of the ends of the fuel hose; and modification of the heat-shrunk plastic cover and steel identification band area. Replacement of the fuel hose with a serviceable part, if accomplished, terminates the requirements of this AD. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on March 9, 1995, to all known U.S. owners and operators of Lockheed Model L–1011–385 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–32–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation

that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

95–06–51 Lockheed Aeronautical Systems Company: Amendment 39–9185. Docket 95–NM–32–AD.

Applicability: Model L–1011–385 series airplanes; as listed in Lockheed Service Bulletin 093–28–A091, dated March 8, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a flexible fuel hose, accomplish the following:

(a) Within 100 hours time-in-service or 10 days after the effective date of this AD, whichever occurs first: Accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Lockheed Service Bulletin 093–28–A091, dated March 8, 1995.

(1) Perform a visual inspection to detect corrosion, severed braided strands, or fuel leakage of the fuel feed line hose assembly, part number (P/N) 96715–107 (Lockheed P/N 740970–107), on engine number two. And

(2) Treat the ends of the fuel hose where the collars are clamped to the braided strands, and modify the heat-shrunk plastic cover and steel identification band area.

(b) If no discrepancy is found during the inspection required by paragraph (a) of this AD: Following accomplishment of the actions required by paragraph (a)(2) of this AD, no further action is required by this AD.

(c) If any corrosion is found during any inspection required by this AD: Prior to further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD in accordance with Lockheed Service Bulletin 093–28–A091, dated March 8, 1995.

(1) Replace the fuel hose with a serviceable part. Or

(2) Inspect the fuel hose thereafter on a daily basis to detect ballooning of the hose. If any ballooning is found, prior to further flight, replace the fuel hose with a serviceable part.

(d) If any severed braided strand or any fuel leak is found during any inspection required by this AD: Prior to further flight, replace the fuel hose with a serviceable part in accordance with Lockheed Service Bulletin 093–28–A091, dated March 8, 1995.

(e) Replacement of the fuel hose assembly with a fuel hose assembly having P/N 740970–113 or P/N 96715–107 (Lockheed P/N 740970–107) constitutes terminating action for the requirements of this AD.

Note 2: The preferred replacement fuel hose assembly is P/N 740970–113.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

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

(h) The actions shall be done in accordance with Lockheed Service Bulletin 093–28–A091, dated March 8, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on April 21, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–51, issued on March 9, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 27, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8080 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–33–AD; Amendment 39–9189; AD 95–06–52]

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95–06–52 that was sent previously to all known U.S. owners and operators of certain Dornier Model 328–100 series airplanes by individual telegrams. This AD requires removal of the bypass outlet plates from the lower cowlings of both engines. This amendment is prompted by reports of engine power rollback/flameout due to ingestion of ice into an engine. The actions specified by this AD are intended to prevent ingestion of ice into an engine, which could result in engine power rollback/flameout.

DATES: Effective April 21, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–52, issued on March 10, 1995, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of April 21, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–33–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Daimler-Benz Aerospace, Dornier, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: On March 10, 1994, the FAA issued telegraphic AD T95–06–52, which is applicable to certain Dornier Model 328–100 series airplanes.

That AD was prompted by a report from the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, which advised the FAA of four incidents of engine power rollback/flameout. The cause of these incidents is still under investigation; however, the ingestion of ice into the engine has been identified as a contributing factor.

Certain Dornier Model 328–100 series airplanes are equipped with a plate that partially covers the bypass duct outlet port on the lower cowling of the air intake for both engines. This plate reduces air flow into the bypass duct, thereby reducing the effectiveness of the inertial separator. (The inertial separator consists of a sharp bend in the inlet duct that leads to the engine, and a bypass duct positioned in a straight line with the air intake ducting. Ice and other foreign matter is unable to travel around the bend in the ducting and thereby reach the engine due to the inertia of the foreign matter; such matter is swept overboard through the bypass duct.) Reduced effectiveness of the inertial separator would permit ice ingestion into the engine. The FAA has determined that removal of the bypass outlet plate on the lower cowlings of the engines reduces the possibility of ice ingestion into the engine.

Ingestion of ice into an engine, if not reduced to an acceptable level, could result in engine power rollback/flameout.

Dornier has issued Service Bulletin SB–328–71–086, dated March 6, 1995, which describes procedures for removal of the bypass outlet plates from the lower cowlings of both engines. Accomplishment of this modification will increase the bypass ratio of the engine inlet duct to prevent ingestion of ice into an engine and possible engine flameout. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 95–156, dated March 8, 1995, in order to assure the continued airworthiness of these airplanes in the Federal Republic of Germany.

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

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued Telegraphic AD T95–06–52, to require removal of the bypass outlet plates from the lower cowlings of both engines. The actions are required to be accomplished in accordance with the service bulletin previously described.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on March 10, 1995, to all known U.S. owners and operators of certain Dornier Model 328–100 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

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

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–33–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

95–06–52 Dornier: Amendment 39–9189. Docket 95–NM–33–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3033 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent ingestion of ice into an engine, which could result in engine power rollback/flameout, accomplish the following:

(a) Prior to further flight into known or forecast icing conditions, remove the bypass outlet plate having part number (P/N) 001A716A2002000 or P/N 001A716E2012000 from the lower cowlings of the engines, in accordance with Dornier Service Bulletin SB–328–71–086, dated March 6, 1995.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The removal shall be done in accordance with Dornier Service Bulletin SB–328–71–086, dated March 6, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Daimler-Benz Aerospace, Dornier, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 21, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–52, issued on March 10, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 31, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8447 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–ANM–1]

Amend Class E Airspace; North Bend, OR

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at North Bend, Oregon, to encompass a new Standard Instrument Approach Procedure (SIAP) at North Bend Municipal Airport, Oregon. The area will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Ted Melland, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 94–ANM–1, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On December 5, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the North Bend, OR, Class E airspace (59 FR 62361). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraphs 6002 and 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the North Bend, OR, Class E airspace by enlarging portions of the class E airspace to encompass new instrument procedures for aircraft operations within controlled airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM OR E2 North Bend, OR [Revised]

North Bend Municipal Airport, OR
(lat. 43°25′02″ N, long. 124°14′46″ W)
North Bend VORTAC
(lat. 43°24′56″ N, long. 124°10′06″ W)
Empire, LOM/NDB
(lat. 43°23′41″ N, long. 124°18′37″ W)

Within a 4.2-mile radius of the North Bend Municipal Aiport, and within 1.8 miles each side of the North Bend VORTAC 044° radial extending from the 4.2-mile radius to 5.7 miles northeast of the VORTAC, and within 3.7 miles each side of the North Bend VORTAC 092° radial extending from the 4.2-mile radius to 7.5 miles east of the VORTAC, and within 2.7 miles each side of the 241° bearing from the Empire LOM/NDB extending from the 4.2-mile radius to 6.1 miles southwest of the LOM/NDB.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM OR E5 North Bend, OR [Revised]

North Bend VORTAC
(Lat. 43°24′56″ N, long. 124°10′06″ W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the North Bend VORTAC from the 142° radial CW to the 352° radial, and within a 14-mile radius of the VORTAC from the 352° radial CW to the 142° radial, and within 2.7 miles north of the North Bend VORTAC 268° radial extending from the 8-mile radius to 11 miles west of the VORTAC, and within 1.8 miles south and 5.7 miles north of the VORTAC 241° radial extending from the 8-mile radius to 14.8 miles southwest; that airspace extending upward from 1,200 feet above the surface within a 19.2-mile radius of the North Bend VORTAC extending clockwise from the west edge of V–27 south of the VORTAC, to the west edge of V–287 north of the VORTAC, and within 2.2 miles southeast and 10.1 miles northwest of the North Bend VORTAC 241° radial, extending from the VORTAC to 22.2 miles southwest.

* * * * *

Issued in Seattle, Washington, on March 17, 1995.

Richard E. Prang,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–8507 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960–AD72

Computing Benefit Amounts, Disposing of Underpayments, Resolving Overpayments, and Payment Restriction

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are revising our rules on computation of benefits to define the term ''first becomes eligible'' as it relates to a pension based on noncovered employment. We are also revising the computation rules to provide that we will consider all government service used by a pension-paying agency when we determine whether an individual first became eligible before 1986 for a pension based on noncovered employment. Further, we are also revising our rule on determining fault regarding overpayments to state that benefit deductions because of net earnings from self-employment are not applicable after an individual attains age 70. Additionally, we are revising our rules on underpayments to clarify a misleading cross-reference. Finally, we are updating the list of countries to which benefit payments are withheld because of Treasury Department restrictions.

DATES: These regulations are effective April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–8471 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number 1–800–772–1213.

SUPPLEMENTARY INFORMATION: Section 215(a)(7) of the Social Security Act (the Act) requires us to use a modified formula for computing the primary insurance amount (the basic benefit amount) of an individual's old-age or disability insurance benefit if the individual first becomes eligible after 1985 for such a benefit and for a monthly periodic payment based on noncovered employment. The modified formula applies to individuals who are concurrently entitled to such a monthly periodic payment and to old-age or disability benefits under title II of the Act. It results in a lower primary insurance amount than would have been computed if the monthly periodic payment had not been considered. However, neither the Act nor our regulations at 20 CFR 404.213 define the phrase ''first becomes eligible.''

In defining ''first becomes eligible,'' we have identified two interpretations which pertain to the date creditable service is acquired. One interpretation is that an individual first becomes eligible when he or she has currently acquired enough service to qualify for a pension. The other interpretation is that an individual first becomes eligible when he or she has acquired enough service to qualify for a pension, regardless of when the service was acquired.

We recently became aware that some individuals have purchased credit for prior service, e.g., military service, which could affect their eligibility date and allow them to become eligible before 1986 for a monthly pension based on noncovered employment. Such an individual would thus be excluded from the modified computation because he or she first became eligible for the monthly pension before 1986. There is no restriction in the Act which precludes using purchased credit to establish eligibility before 1986 for a monthly pension based on noncovered

employment and we see no reason not to consider purchased credits when deciding whether the modified computation applies.

We have adopted the interpretation that we will consider all applicable service used by the pension-paying agency, regardless of when the service was acquired. Under this interpretation, an individual ''first become eligible'' for a monthly periodic payment for the first month (including a past month) that the individual meets all the requirements for the payment except stopping work or applying for the payment. We are, therefore, amending § 404.213(a) to include the definition of ''first becomes eligible'' and our policy on applicable service.

Regarding underpayments, the current § 404.503(b), which reflects section 204(d) of the Act, provides that if an individual dies before receiving a title II benefit payment, the underpayment so created is payable to a person or persons in an order of priority as specified in that section. Paragraph (3) of § 404.503(b) provides that if there is no one higher in the order of priority, the underpayment may be paid to the ''parent or parents of the deceased individual (as defined in § 404.374) entitled to a monthly benefit on the basis of the same earnings record as was the deceased individual'' in the month of death. Under paragraph (6) of § 404.503(b), if there is no one higher in the order of priority, the underpayment may be paid to the ''parent or parents of the deceased individual (as defined in § 404.374) who do not qualify under paragraph (b)(3).''

Section 404.374 defines ''parent'' as the natural, adoptive, or stepparent of an *insured* person and is based on the statutory requirements for eligibility for benefits as the parent of an insured worker. However, these stringent criteria are not required for purposes of receiving an underpayment. Section 204(d) (3) and (6) of the Act require only that the individual be the parent of the deceased underpaid beneficiary. The cross reference to § 404.374 in § 404.503(b) (3) and (6) results in an unduly restrictive definition of a parent who is eligible for an underpayment. We are, therefore, revising § 404.503(b) (3) and (6) so that for purposes of eligibility for an underpayment, the definition of ''parent'' in § 404.374 is extended to a parent of any deceased individual who was entitled to social security benefits.

Regarding overpayments, we are amending § 404.510, which lists the situations where an individual may be considered to be ''without fault'' for accepting an incorrect benefit payment. Paragraph (l) of that section explains that the overpaid individual may be ''without fault'' in causing the overpayment if he or she reasonably believed that net earnings from self-employment after attaining age 72 in a taxable year would not be cause for deductions from benefits for months in the year of attaining age 72 that are before the month of attainment. For months after 1982, the age at which social security beneficiaries are no longer subject to an earnings test has been reduced from age 72 to age 70. This reduction from age 72 to 70 is based on section 302 of Pub. L. 95–216 (the Social Security Amendments of 1977) which became effective for months after December 1982, as provided in section 2204 of Pub. L. 97–35 (the Omnibus Budget Reconciliation Act of 1981). We are, therefore, revising § 404.510(l) to change age 72 to age 70 for months after December 1982.

Our final amendment in these regulations is to delete Albania and the German Democratic Republic from the list in § 404.460 of countries to which the Department of the Treasury will not send benefit checks. On November 7, 1991, the Department of the Treasury removed the German Democratic Republic from the Withheld Check List set out in 31 CFR 211.1 by publishing final rules in the **Federal Register** at 56 FR 56931. On September 30, 1992, the Department removed Albania from the list by publishing final rules in the **Federal Register** at 57 FR 44998.

On July 20, 1994, we published proposed rules in the **Federal Register** at 59 FR 37000 with a 60-day comment period. We received no comments on those proposed rules. We are, therefore, publishing the proposed rules essentially unchanged as final rules.

Regulatory Procedures

Executive Order No. 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under E.O. 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These final rules impose no additional reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance).

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits, Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

Dated: February 1, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Approved: March 30, 1995.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, we are amending subparts C, E, and F of part 404 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart C of part 404 continues to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 1102 of the Social Security Act; 42 U.S.C. 402(a), 405(a), 415, and 1302.

2. Section 404.213 is amended by adding two sentences after the first sentence of paragraph (a)(3) to read as follows:

§ 404.213 Computation where you are eligible for a pension based on your noncovered employment.

(a) * * *

(3) * * *

We consider you to first become eligible for a monthly pension in the first month for which you met all requirements for the pension except that you were working or had not yet applied. In determining whether you are eligible for a pension before 1986, we consider all applicable service used by the pension-paying agency. * * *

* * * * *

3. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424, 427, and 1302.

4. Section 404.460 is amended by revising the list of countries in paragraph (c)(3) to read as follows:

§ 404.460 Nonpayment of monthly benefits of aliens outside the United States.

* * * * *

(c) * * *

(3) * * *

Cuba

Democratic Kampuchea (formerly Cambodia)

North Korea

Vietnam

* * * * *

5. The authority citation for subpart F of part 404 continues to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 404(a)–(d), 405(a), and 1302.

6. Section 404.503 is amended by revising paragraphs (b)(3) and (b)(6) to read as follows:

§ 404.503 Underpayments.

* * * * *

(b) * * *

(3) The parent or parents of the deceased individual, entitled to a monthly benefit on the basis of the same earnings record as was the deceased individual for the month in which such individual died (if more than one such parent, in equal shares to each such parent). For this purpose, the definition of ''parent'' in § 404.374 includes the parent(s) of any deceased individual who was entitled to benefits under title II of the Act.

* * * * *

(6) The parent or parents of the deceased individual, who do not qualify under paragraph (b)(3) of this section (if more than one such parent, in equal shares to each such parent). For this purpose, the definition of ''parent'' in § 404.374 includes the parent(s) of any deceased individual who was entitled to benefits under title II of the Act.

* * * * *

7. Section 404.510 is amended by revising paragraph (l) to read as follows:

§ 404.510 When an individual is ''without fault'' in a deduction overpayment.

* * * * *

(l) Reasonable belief, with respect to earnings activity for months after December 1982, that net earnings from self-employment after attainment of age 70 (age 72 for months after December 1972 and before January 1983) in the taxable year in which such age was attained would not cause deductions (see § 404.430(a)) with respect to benefits payable for months in that taxable year prior to the attainment of such age.

* * * * *

[FR Doc. 95–8399 Filed 4–5–95; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–95–1729; FR–3474–F–03]

RIN 2506–AB53

Community Development Block Grant Program Economic Development Guidelines; Final Rule and Guidelines; Technical Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule and guidelines; technical amendments.

SUMMARY: The Department published in the **Federal Register**, a final rule and guidelines that established guidelines to assist Community Development Block Grant (CDBG) recipients in evaluating and selecting economic development activities for assistance with CDBG funds. The purpose of this document is to make certain clarifying technical amendments to that final rule.

EFFECTIVE DATE: February 6, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director, Office of Block Grant Assistance, Room 7286, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3587; TDD: (202) 708–2565. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

§ 570.200 [Amended]

2. In § 570.200, paragraph (f)(2) is amended by removing the word ''subrecipients'', and by adding in its place the word ''entities''.

3. Section 570.208 is amended by revising paragraph (a)(1)(v), to read as follows:

§ 570.208 Criteria for national objectives.

(a) * * *

(1) * * *

(v) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

* * * * *

§ 570.208 [Amended]

4. In § 570.208, paragraph (a)(4)(vi)(B) is amended by removing the phrase ''a subrecipient'', and by adding in its place the phrase ''an entity''.

5. In § 570.208, paragraph (a)(4)(vi)(F)(*2*) is amended by removing the cross-reference to ''paragraph (a)(4)(v)(C)(*1*) of this section'', and by adding in its place the cross-reference to ''paragraph (a)(4)(vi)(F)(*1*) of this section''.

§ 570.209 [Amended]

6. In § 570.209, paragraph (b) introductory text is amended by removing the cross-reference to ''§ 570.208(a)(4)(vi)(D)(*2*)'', and by adding in its place the cross-reference to ''§ 570.208(a)(4)(vi)(F)(*2*)''.

§ 570.483 [Amended]

7. In § 570.483, paragraph (b)(4)(vi)(B) is amended by removing the phrase ''a subrecipient'', and by adding in its place the phrase ''an entity''.

8. In § 570.483, paragraph (b)(4)(vi)(F)(*2*) is amended by removing the cross-reference to ''paragraph (b)(4)(iii)(C)(*1*) of this section'', and by adding in its place the cross-reference to ''paragraph (b)(4)(vi)(F)(*1*) of this section''.

9. Section 570.500 is amended by:

a. Amending paragraph (a)(4)(ii) by removing the period from the end of the

fourth sentence that begins with ''Amounts generated by activities financed with loans'', and by adding in its place a comma and a phrase to the end of the fourth sentence; and

b. Amending paragraph (c) by removing the period from the end of the second sentence that begins with ''The term excludes'', and by adding in its place a comma and a phrase to the end of the second sentence, to read as follows:

§ 570.500 Definitions.

(a) * * *

(4) * * *

(ii) * * * , except that the use of such funds shall be limited to activities that are located in a revitalization strategy area and implement a HUD approved area revitalization strategy pursuant to § 91.215(e) of this title. * * *

* * * * *

(c) * * * , unless the grantee explicitly designates it as a subrecipient. * * *

Dated: March 30, 1995.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 95–8439 Filed 4–5–95; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 55, 72, 178, and 179

[T.D. ATF–363; 94F–022P]

RIN 1512–AB35

Implementation of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements the provisions of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, and possession of firearms by persons subject to restraining orders. The temporary rule will remain in effect until superseded by final regulations.

In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on the temporary rule for a 90-day period following the publication date of this temporary rule.

EFFECTIVE DATES: The temporary regulations are effective on April 6, 1995, except for the provisions in § 178.92 (a)(2), (c)(i)(ii)(B) and (c)(i)(iii), which will be effective on July 5, 1995.

ADDRESSES: Send written comments to: Chief, Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; Washington, DC 20091–0221.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1994, Public Law 103–322 (108 Stat. 1796) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44), and Title XI of the Organized Crime Control Act of 1970, as amended (18 U.S.C. Chapter 40). The provisions of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (hereafter, ''the Act''), became effective upon the date of enactment. Some of the new statutory provisions and the regulation changes necessitated by the law are as follows:

(1) *Restriction on Manufacture, Transfer, and Possession of Certain Semiautomatic Assault Weapons.* This amendment to the GCA prohibits the manufacture, transfer, and possession of semiautomatic assault weapons, with certain exceptions. The amendment bans 19 weapons by name, as well as any copies or duplicates of such firearms, and semiautomatic rifles, semiautomatic pistols, and semiautomatic shotguns which have 2 or more of the features specified in the law. The amendment ''grandfathers'' all semiautomatic assault weapons lawfully possessed on the date of enactment, i.e., September 13, 1994. Thus, semiautomatic assault weapons held in inventory by Federal firearms licensees (FFLs) on that date can continue to be possessed and transferred. Nonlicensed individuals in lawful possession of such weapons on the date of enactment may also continue to possess and transfer the weapons in accordance with applicable Federal and State law. The law also requires that the serial number of any semiautomatic assault weapon manufactured after September 13, 1994, clearly show that the weapon was manufactured after that date.

Rather than requiring manufacturers and importers to specify the actual date that such weapons were made, the temporary regulations provide that semiautomatic assault weapons manufactured after September 13, 1994, must be marked ''RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY.'' This marking clearly provides notice that these weapons may only be lawfully possessed by government agencies and law enforcement personnel. As with other firearms, variances from the marking requirements may be requested. The Director may authorize other means of identification of the licensed manufacturer or importer upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of the regulations.

The temporary regulations permit manufacturers and dealers in semiautomatic assault weapons to stockpile such weapons for future sales to law enforcement agencies and law enforcement officers. Manufacturers of semiautomatic assault weapons, manufactured after September 13, 1994, will be permitted to transfer such weapons to any FFL upon obtaining evidence that the weapons will only be disposed of to law enforcement agencies and law enforcement officers. Examples of acceptable evidence are provided in the regulations. In the case of semiautomatic assault weapons imported after September 13, 1994, the existing controls on the importation of nonsporting weapons would continue to be imposed on importers of semiautomatic assault weapons. Thus, applications to import such weapons would be approved only if the importer submits a purchase order from a governmental entity.

The regulations will permit licensed dealers to possess semiautomatic assault weapons for sale to law enforcement agencies and law enforcement officers for official use. Dealers must retain evidence that their inventory of weapons is for sale to law enforcement agencies and law enforcement officers. Dealers are required to retain records of disposition indicating that the weapons were sold only to law enforcement agencies and law enforcement officers.

When any licensed manufacturer, importer, or dealer transfers a semiautomatic assault weapon to a law

enforcement officer, the regulations require that the licensee obtain written statements, under penalty of perjury, from the purchasing officer and a supervisory officer, stating that the weapon is for use in official duties and is not being acquired for resale. The purpose of these statements is to prevent the introduction of semiautomatic assault weapons into commercial channels.

(2) *Ban of Large Capacity Ammunition Feeding Devices.* This amendment to the GCA makes it unlawful to transfer or possess large capacity ammunition feeding devices. Exceptions are provided for devices lawfully possessed on the date of enactment and devices manufactured and sold to governmental entities. The Act defines a large capacity ammunition feeding device as a magazine, belt, feed strip or similar device manufactured after the date of enactment that has a capacity of, or can be readily restored or converted to accept more than 10 rounds of ammunition. The definition does not include an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition. The regulations also specifically exempt fixed magazines for manually operated firearms and firearms listed in the Appendix to 18 U.S.C. 922 from the definition of ''large capacity ammunition feeding device.'' This exemption is based on the fact that manually operated firearms and firearms listed in the Appendix are specifically exempted from the prohibitions applicable to semiautomatic assault weapons. Unless the assault weapon exemptions apply to the fixed magazines for these weapons, the Act would effectively ban firearms expressly exempted from the assault weapon provisions. Accordingly, ATF interprets the definition of ''large capacity ammunition feeding device'' as being inapplicable to fixed magazines for manually operated firearms and firearms listed in the Appendix to 18 U.S.C. 922.

The law also provides that large capacity ammunition feeding devices manufactured after September 13, 1994, shall be identified by a serial number which clearly shows that the device was manufactured or imported after that date and such other markings as the Director may prescribe. The temporary regulations provide that a manufacturer or importer may use the same serial number for all large capacity ammunition feeding devices produced or imported. Prior to enactment of the Act, ammunition feeding devices were generally not marked with a serial number. Thus, the fact that these devices are marked with a serial number indicates that they were produced or imported after the effective date of the ban. Additionally, domestically made large capacity ammunition feeding devices must be marked with the name and address of the manufacturer, and imported large capacity ammunition feeding devices must be marked with the name of the manufacturer, country of origin, and the name and address of the importer. Further, large capacity ammunition feeding devices manufactured or imported after September 13, 1994, must be marked ''RESTRICTED LAW ENFORCEMENT/ GOVERNMENT USE ONLY.'' This marking clearly provides notice that the magazines may only be lawfully possessed by government agencies and law enforcement personnel. The regulations also provide that manufacturers and importers of metallic links for use in the assembly of belted ammunition are only required to place the identification marks on the containers used for the packaging of the links. Finally, the regulations provide that the Director may authorize other means of identification of the manufacturer or importer under certain circumstances.

The regulations permit persons who manufacture, import, and deal in large capacity ammunition feeding devices to stockpile such devices for future sales to law enforcement agencies and law enforcement officers for official use. The regulations provide that possession and transfer of such devices by these persons will be presumed to be lawful if such persons maintain evidence establishing that the devices are possessed and transferred for sale to law enforcement agencies and law enforcement officers.

(3) *Firearms Licensure and Registration to Require a Photograph and Fingerprints.* The Act amended the GCA and the National Firearms Act (NFA) to require individual applicants for Federal firearms licenses and NFA special (occupational) tax stamps to provide a photograph and a set of fingerprints along with the application. Conforming changes to the regulations have been made in §§ 178.44(a) and 179.34(e) to implement these requirements.

(4) *Compliance with State and Local Law as a Condition to Licensure.* The Act amended the licensing standards of the GCA to require that an applicant for a Federal firearms license certify that the firearms business to be conducted under the license is not prohibited by State and local law, and will in fact be conducted in compliance with State and local law. Further, the applicant must certify that the chief law enforcement officer (CLEO) of the locality in which the premises are located has been notified that the applicant intends to apply for a Federal firearms license.

This provision has necessitated an amendment of the existing regulations regarding licensees who move their business to a new location during the term of an existing license. The regulations require a licensee, 30 days prior to such move, to file an application for amended license with the Chief, Firearms and Explosives Licensing Center. The purpose of the application is to ensure that the firearms business at the new location will comply with State and local law. The application also requires applicants for an amended license to notify the CLEO in the locality where the new premises are located of the intent to apply for an amended license.

The regulations have also been amended to require the certificate of compliance with State and local law to be executed upon license renewal. This is necessary due to changes which may have occurred in State and local law during the 3 year term of the license.

(5) *Action on Firearms License Application.* The Act amended the GCA to extend the period allowed for ATF to process Federal firearms license applications from 45 to 60 days. Section 178.47 (c) and (d) of the regulations has been amended to reflect this change.

(6) *Inspection of Firearms Licensees' Inventory and Records.* The Act amended section 923(g) of the GCA relating to inspection of Federal firearms licensees' records and inventory by ATF. Prior to amendment, the inventory and records of a licensee could only be examined once a year for ensuring compliance with GCA recordkeeping requirements. The amendment retains the annual inspection and also permits an FFL's records and inventory to be inspected or examined at any time with respect to a firearm involved in a criminal investigation that is traced to the licensee. Conforming changes have been made to the regulations in § 178.23(b)(2) to implement this requirement.

(7) *Reports of Theft or Loss of Firearms.* The Act amends the GCA to require FFLs to report any theft or loss of firearms from the licensee's inventory or collection to ATF and to the appropriate local authorities. The report must be made, both orally and in writing, within 48 hours after the theft or loss is discovered. FFLs must also retain a copy of the written report as part of their permanent records for 5 years. Conforming changes have been

made to the regulations in §§ 178.39a and 178.129(b) to implement this requirement.

(8) *Responses to Requests for Information.* The Act amends the GCA to require FFLs to respond orally or in writing, as the Director may require, to firearms trace requests from ATF no later than 24 hours after receipt of the request. In addition, the law requires that the Director implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed and authorized by ATF to request such information. The regulations, § 178.25a, provide that the requested information shall be given orally to an ATF officer at the National Tracing Center. Verification of the identity and employment of National Tracing Center personnel requesting information may be established at the time the requested information is provided by telephoning the toll free number 1–800–788–7132 or using the toll free facsimile (FAX) number 1–800–578–7223.

(9) *Prohibition Against Disposal of Firearms to, or Receipt of Firearms by, Persons Who Are Subject to Restraining Orders.* The Act amends the GCA to expand the list of persons who may not lawfully receive or possess firearms to include persons who are subject to a court order that restrains such person from harassing, stalking, or threatening an ''intimate partner'' or child of such intimate partner of the person. It is unlawful for persons who are subject to such orders to receive or possess firearms and it is unlawful for any person to sell or dispose of firearms to such persons, knowing or having reasonable cause to believe such persons are subject to such an order. The term ''intimate partner'' is defined as a spouse, former spouse, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person. Conforming changes have been made to the regulations in §§ 178.11, 178.32(a)(8), (d)(8), and 178.99(c)(8) to implement this provision of the law.

(10) *Possession of Explosives by Felons and Others.* The Act amends the Federal explosives laws to make it unlawful for felons and certain other prohibited persons to possess explosives. Prior to amendment, the law prohibited shipment, transportation, and receipt of explosives by prohibited persons, but did not prohibit possession. Conforming changes have been made to the regulations in § 55.26(b) to implement this provision of the law.

(11) *Summary Destruction of Explosives Subject to Forfeiture.* The Act amends the Federal explosives laws to provide for the immediate destruction of seized explosives materials by ATF where it is impractical or unsafe to remove or store the explosives. The regulations incorporate by reference ATF's existing procedures for seizure and forfeiture of property seized for violation of the law.

(12) *Prohibition Against Transactions Involving Stolen Firearms or Ammunition Which Have Moved in Interstate or Foreign Commerce.* The Act amends the GCA to make a technical amendment to section 922(j), relating to stolen firearms, to make it unlawful to possess stolen firearms. Prior to amendment this provision made it unlawful to receive, conceal, store, barter, sell, or dispose of stolen firearms, but did not prohibit possession. Language was also added to clarify the interstate commerce element of the statute. Conforming amendments to the regulations are prescribed in § 178.33.

(13) *Receipt of Firearms by Nonresident.* The Act amends the GCA to provide that it is unlawful for any person, other than an FFL, who does not reside in any State to receive firearms unless such receipt is for lawful sporting purposes. Conforming amendments to the regulations are prescribed in § 178.29a.

(14) *Disposing of Explosives to Prohibited Persons.* The Act amends the Federal explosives laws to make it unlawful for any person to sell or otherwise dispose of explosives to felons and other prohibited persons. Prior to amendment this provision prohibited such dispositions by licensees only. Conforming amendments to the regulations are prescribed in § 55.26(c).

(15) *Definition of Armor Piercing Ammunition.* The definition of ''armor piercing ammunition'' in the GCA has been amended by the Act to include full jacketed projectiles larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. Conforming amendments to the regulations are prescribed in § 178.11.

(16) *Exemption From Brady Background Check Requirement of Return of Handgun to Owner.* The Act amends the GCA to exempt transactions involving the return of a handgun to the person from whom it was received from the waiting period and background check requirements imposed by the Brady Handgun Violence Prevention Act. Regulations implementing this provision of the Act were published in T.D. ATF–361, published in the **Federal Register** on February 27, 1995 (60 FR 10782).

Miscellaneous

ATF is amending § 178.127 to reflect the new address of the ATF Out-of-Business Records Center located in Falling Waters, West Virginia. The regulation is also being amended to provide that where a licensed business is discontinued and succeeded by a new licensee, the licensee's records may be delivered to either the successor or to ATF.

In addition, ATF is making a technical amendment to § 178.45 to clarify that ATF Form 7CR is the correct form to file with ATF when a person desires to obtain a license as a collector of curios or relics under the GCA.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined in E.O. 12866, because the economic effects flow directly from the underlying statute and not from this temporary rule. Therefore, a regulatory assessment is not required.

Administrative Procedure Act

Because this document merely implements the law and because immediate guidance is necessary to implement the provisions of the law, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this temporary rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in this regulation have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1512–0526. The estimated average annual burden associated with the collection of

information in this regulation is 2.52 hours per respondent or recordkeeper. Other collections of information contained in this temporary rule have been approved under control numbers: 1512–0017, 1512–0018, and 1512–0019 (§ 178.119); 1512–0522 and 1512–0523 (§ 178.47); 1512–0524 (§ 178.39a); and 1512–0525 (§ 178.52).

For further information concerning the collections of information, and where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, refer to the preamble to the cross-referenced notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

Part 55

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

Part 72

Administrative practice and procedure, Authority delegations, Seizures and forfeitures, and Surety bonds.

Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Part 179

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

27 CFR parts 55, 72, 178, and 179 are amended as follows:

PART 55—COMMERCE IN EXPLOSIVES

Paragraph 1. The authority citation for 27 CFR Part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

Par. 2. Section 55.1(a) is revised to read as follows:

§ 55.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate to commerce in explosives and implement Title XI, Regulation of Explosives (18 U.S.C. Chapter 40; 84 Stat. 952), of the Organized Crime Control Act of 1970 (84 Stat. 922), and Pub. L. 103–322 (108 Stat. 1796).

* * * * *

Par. 3. Section 55.26 is amended by revising the title of the section, by revising paragraph (b), and by adding paragraph (c) to read as follows:

§ 55.26 Prohibited shipment, transportation, receipt, possession, or distribution of explosive materials.

* * * * *

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive or possess any explosive materials which have been shipped or transported in interstate or foreign commerce who:

(1) Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,

(2) Is a fugitive from justice,

(3) Is an unlawful user of or addicted to marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or

(4) Has been adjudicated as a mental defective or has been committed to a mental institution.

(c) No person shall knowingly distribute explosive materials to any individual who:

(1) Is under twenty-one years of age,

(2) Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,

(3) Is a fugitive from justice,

(4) Is an unlawful user of or addicted to marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or

(5) Has been adjudicated as a mental defective or has been committed to a mental institution.

Par. 4. Section 55.166 is amended by adding a sentence at the end of the section to read as follows:

§ 55.166 Seizure or forfeiture.

* * * (See § 72.27 of this title for regulations on summary destruction of explosive materials which are impracticable or unsafe to remove to a place of storage.)

PART 72—DISPOSITION OF SEIZED PERSONAL PROPERTY

Par. 5. The authority citation for 27 CFR Part 72 continues to read as follows:

Authority: 18 U.S.C. 921, 1261; 19 U.S.C. 1607, 1610, 1612, 1613, 1618; 26 U.S.C. 7101, 7322–7325, 7326, 7805; 31 U.S.C. 9301, 9303, 9304, 9306; 40 U.S.C. 304(k); 49 U.S.C. 784, 788.

Par. 6. Section 72.21(c) is revised to read as follows:

§ 72.21 Personal property and carriers subject to seizure.

* * * * *

(c) Upon acquittal of the owner or possessor, or the dismissal of the criminal charges against such person other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which such person is subject, firearms or ammunition seized or relinquished under 18 U.S.C. Chapter 44 shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law.

Par. 7. Section 72.27 is added to Subpart C to read as follows:

§ 72.27 Summary destruction of explosives subject to forfeiture.

(a) Notwithstanding the provisions of § 55.166 of this Title, in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness.

(b) Within 60 days after any destruction made pursuant to paragraph (a) of this section, the owner of the property and any other persons having an interest in the property so destroyed may make application to the Director for reimbursement of the value of the property in accordance with the instructions contained in ATF

Publication 1850.1 (9–93), Information to Claimants. ATF P 1850.1 is available at no cost upon request from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950. The Director shall make an allowance to the claimant not exceeding the value of the property destroyed, if the claimant establishes to the satisfaction of the Director that—

(1) The property has not been used or involved in a violation of law; or

(2) Any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness.

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Par. 8. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 9. Section 178.1(a) is revised to read as follows:

§ 178.1 Scope of regulations.

(a) *General.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99–308 (100 Stat. 449), Pub. L. 99–360 (100 Stat. 766), Pub. L. 99–408 (100 Stat. 920), Pub. L. 103–159 (107 Stat. 1536), and Pub. L. 103–322 (108 Stat. 1796).

* * * * *

Par. 10. Section 178.11 is amended by revising the definition for ''armor piercing ammunition,'' and by adding definitions for ''intimate partner,'' ''large capacity ammunition feeding device,'' ''permanently inoperable,'' ''semiautomatic assault weapon,'' ''semiautomatic pistol,'' and ''semiautomatic shotgun'' to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Armor piercing ammunition. Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or full jacketed projectiles larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. The term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices.

* * * * *

Intimate partner. With respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

Large capacity ammunition feeding device. A magazine, belt, drum, feed strip, or similar device for a firearm manufactured after September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition, or a fixed device for a manually operated firearm, or a fixed device for a firearm listed in 18 U.S.C. 922, Appendix A.

* * * * *

Permanently inoperable. A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition. An acceptable method of rendering most firearms permanently inoperable is to fusion weld the chamber closed and fusion weld the barrel solidly to the frame. Certain unusual firearms require other methods to render the firearm permanently inoperable. Contact ATF for instructions.

* * * * *

Semiautomatic assault weapon. (a) Any of the firearms, or copies or duplicates of the firearms in any caliber, known as:

(1) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

(2) Action Arms Israeli Military Industries UZI and Galil,

(3) Beretta Ar70 (SC–70),

(4) Colt AR–15,

(5) Fabrique National FN/FAL, FN/LAR, and FNC,

(6) SWD M–10, M–11, M–11/9, and M–12,

(7) Steyr AUG,

(8) INTRATEC TEC–9, TEC–DC9 and TEC–22, and

(9) Revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(b) A semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

(1) A folding or telescoping stock,

(2) A pistol grip that protrudes conspicuously beneath the action of the weapon,

(3) A bayonet mount,

(4) A flash suppressor or threaded barrel designed to accommodate a flash suppressor, and

(5) A grenade launcher;

(c) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

(1) An ammunition magazine that attaches to the pistol outside of the pistol grip,

(2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer,

(3) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned,

(4) A manufactured weight of 50 ounces or more when the pistol is unloaded, and

(5) A semiautomatic version of an automatic firearm; and

(d) A semiautomatic shotgun that has at least 2 of—

(1) A folding or telescoping stock,

(2) A pistol grip that protrudes conspicuously beneath the action of the weapon,

(3) A fixed magazine capacity in excess of 5 rounds, and

(4) An ability to accept a detachable magazine.

Semiautomatic pistol. Any repeating pistol which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

* * * * *

Semiautomatic shotgun. Any repeating shotgun which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

* * * * *

Par. 11. Section 178.23(b)(2) is revised to read as follows:

§ 178.23 Right of entry and examination.

* * * * *

(b) * * *

(2) For insuring compliance with the recordkeeping requirements of this part:

(i) Not more than once during any 12-month period, or

(ii) At any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee, or

* * * * *

Par. 12. Section 178.25a is added to Subpart C to read as follows:

§ 178.25a Responses to requests for information.

Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by an ATF officer at the National Tracing Center for information contained in the records required to be kept by this part for determining the disposition of one or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally to the ATF officer. Verification of the identity and employment of National Tracing Center personnel requesting information may be established at the time the requested information is provided by telephoning the toll-free number 1–800–788–7132 or using the toll-free facsimile (FAX) number 1–800–578–7223.

Par. 13. Section 178.29a is added to Subpart C to read as follows:

§ 178.29a Acquisition of firearms by nonresidents.

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State shall receive any firearms unless such receipt is for lawful sporting purposes.

Par. 14. Section 178.32 is amended by revising paragraphs (a)(6), (a)(7), (d)(6), and (d)(7), and by adding paragraphs (a)(8) and (d)(8) to read as follows:

§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.

(a) * * *

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship, or

(8) Is subject to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(ii) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(iii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

* * * * *

(d) * * *

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship, or

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child: *Provided,* That the provisions of this paragraph shall only apply to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(ii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Par. 15. Section 178.33 is revised to read as follows:

§ 178.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

Par. 16. Section 178.39a is added to Subpart C to read as follows:

§ 178.39a Reporting theft or loss of firearms.

Each licensee shall report the theft or loss of a firearm from the licensee's inventory (including any firearm which has been transferred from the licensee's inventory to a personal collection and held as a personal firearm for at least 1 year), or from the collection of a licensed collector, within 48 hours after the theft or loss is discovered. Licensees shall report thefts or losses by telephoning 1–800–800–3855 (nationwide toll free number) and by preparing ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report, in accordance with the instructions on the form. The original of the report shall be forwarded to the office specified thereon, and Copy 1 shall be retained by the licensee as part of the licensee's permanent records. Theft or loss of any firearm shall also be reported to the appropriate local authorities.

(Approved by the Office of Management and Budget under control number 1512–0524)

Par. 17. Sections 178.40 and 178.40a are added to Subpart C to read as follows:

§ 178.40 Manufacture, transfer, and possession of semiautomatic assault weapons.

(a) *Prohibition.* No person shall manufacture, transfer, or possess a semiautomatic assault weapon.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply to:

(1) The possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed in the United States under Federal law on September 13, 1994;

(2) Any of the firearms, or replicas or duplicates of the firearms, specified in 18 U.S.C. 922, Appendix A, as such firearms existed on October 1, 1993;

(3) Any firearm that—

(i) Is manually operated by bolt, pump, lever, or slide action;

(ii) Has been rendered permanently inoperable; or

(iii) Is an antique firearm;

(4) Any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition;

(5) Any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine;

(6) The manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by

a law enforcement officer employed by such an entity for purposes of law enforcement;

(7) The transfer to a licensee under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(8) The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement;

(9) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation as authorized by the Director under the provisions of § 178.153; or

(10) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer for the purpose of exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778).

(c) *Manufacture and dealing in semiautomatic assault weapons.* Subject to compliance with the provisions of this part, licensed manufacturers and licensed dealers in semiautomatic assault weapons may manufacture and deal in such weapons manufactured after September 13, 1994: *Provided,* The licensee obtains evidence that the weapons will be disposed of in accordance with paragraph (b) of this section. Examples of acceptable evidence include the following:

(1) Contracts between the manufacturer and dealers stating that the weapons may only be sold to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section;

(2) Copies of purchase orders submitted to the manufacturer or dealer by law enforcement agencies or other purchasers specified in paragraph (b) of this section;

(3) Copies of letters submitted to the manufacturer or dealer by government agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section expressing an interest in purchasing the semiautomatic assault weapons;

(4) Letters from dealers to the manufacturer stating that sales will only be made to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section; and

(5) Letters from law enforcement officers purchasing in accordance with paragraph (b)(6) of this section and § 178.132.

(Paragraph (c) approved by the Office of Management and Budget under control number 1512–0526)

§ 178.40a Transfer and possession of large capacity ammunition feeding devices.

(a) *Prohibition.* No person shall transfer or possess a large capacity ammunition feeding device.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply to:

(1) The possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed in the United States on September 13, 1994;

(2) The manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement;

(3) The transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(4) The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement;

(5) The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purposes of testing or experimentation in accordance with § 178.153; or

(6) The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purpose of exportation in accordance with the Arms Export Control Act (22 U.S.C. 2778).

(c) *Importation, manufacture, and dealing in large capacity ammunition feeding devices.* Possession and transfer of large capacity ammunition feeding devices by persons who manufacture, import, or deal in such devices will be presumed to be lawful if such persons maintain evidence establishing that the devices are possessed and transferred for sale to purchasers specified in paragraph (b) of this section. Examples of acceptable evidence include the following:

(1) Contracts between persons who import or manufacture such devices and persons who deal in such devices stating that the devices may only be sold to law enforcement agencies or other purchasers specified in paragraph (b) of this section;

(2) Copies of purchase orders submitted to persons who manufacture, import, or deal in such devices by law enforcement agencies or other purchasers specified in paragraph (b) of this section;

(3) Copies of letters submitted to persons who manufacture, import, or deal in such devices by government agencies or other purchasers specified in paragraph (b) of this section expressing an interest in purchasing the devices;

(4) Letters from persons who deal in such devices to persons who import or manufacture such devices stating that sales will only be made to law enforcement agencies or other purchasers specified in paragraph (b) of this section; and

(5) Letters from law enforcement officers purchasing in accordance with paragraph (b)(2) of this section and § 178.132.

(Paragraph (c) approved by the Office of Management and Budget under control number 1512–0526)

Par. 18. Section 178.44 is revised to read as follows:

§ 178.44 Original license.

(a) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, or firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application for license, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall include a photograph and fingerprints as required in the instructions on the form. The application shall be accompanied by a completed ATF Form 5300.37 (Certification of Compliance with State

and Local Law) and ATF Form 5300.36 (Notification of Intent to Apply for a Federal Firearms License), and shall include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms), ATF Forms 5300.37, and ATF Forms 5300.36 may be obtained by contacting any ATF office.

(b) Any person who desires to obtain a license as a collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7CR (Curios and Relics), with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36 and shall include the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7CR (Curios and Relics), ATF Forms 5300.37, and ATF Forms 5300.36 may be obtained by contacting any ATF office.

Par. 19. Section 178.45 is revised to read as follows:

§ 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the Chief, Firearms and Explosives Licensing Center, execute and file with ATF prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36, in accordance with the instructions on the forms, and the required fee. The Chief, Firearms and Explosives Licensing Center, may, in writing, require the applicant for license renewal to also file completed ATF Form 7 or ATF Form 7CR in the manner required by § 178.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 or ATF Form 7CR as required by § 178.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the Chief, Firearms and Explosives Licensing Center.

Par. 20. Section 178.47 is amended by adding ''ATF Form 7CR,'' after ''ATF Form 7,'' in paragraph (a) and the introductory text of paragraph (b), by adding new paragraph (b)(6), by removing ''45-day'' in paragraphs (c) and (d) and adding, in its place, ''60-day,'' and by adding a parenthetical text at the end of the section to read as follows:

§ 178.47 Issuance of license.

(a) * * *

(b) * * *

(6) The applicant has filed an ATF Form 5300.37 (Certification of Compliance with State and Local Law) with ATF in accordance with the instructions on the form certifying under the penalties of perjury that—

(i) The business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises are located;

(ii) Within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of business;

(iii) The business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iv) The applicant has completed and sent or delivered ATF F 5300.36 (Notification of Intent to Apply for a Federal Firearms License) to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license. For purposes of this paragraph, the ''chief law enforcement officer'' is the chief of police, the sheriff, or an equivalent officer.

* * * * *

(Paragraph (b)(6) approved by the Office of Management and Budget under control numbers 1512–0522 and 1512–0523)

Par. 21. Section 178.52 is revised to read as follows:

§ 178.52 Change of address.

(a) Licensees may during the term of their current license remove their business or activity to a new location at which they intend regularly to carry on such business or activity by filing an Application for an Amended Federal Firearms License, ATF Form 5300.38, in duplicate, not less than 30 days prior to such removal with the Chief, Firearms and Explosives Licensing Center. The ATF Form 5300.38 shall be completed in accordance with the instructions on the form. The application must be executed under the penalties of perjury and penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the licensee's original license. The Chief, Firearms and Explosives Licensing Center, may, in writing, require the applicant for an amended license to also file completed ATF Form 7 or ATF Form 7CR, or portions thereof, in the manner required by § 178.44.

(b) Upon receipt of a properly executed application for an amended license, the Chief, Firearms and Explosives Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified at the new location, issue the amended license, and return it to the applicant. The license shall be valid for the remainder of the term of the original license. The Chief, Firearms and Explosives Licensing Center, shall, if the applicant is not qualified, refer the application for amended license to the regional director (compliance) for denial in accordance with § 178.71.

(Approved by the Office of Management and Budget under control number 1512–0525)

Par. 22. Section 178.57 is amended by designating the existing paragraph as (a) and by adding paragraphs (b) and (c) to read as follows:

§ 178.57 Discontinuance of business.

* * * * *

(b) Since section 922(v), Title 18, U.S.C., makes it unlawful to transfer or possess a semiautomatic assault weapon, except as provided in the law, any licensed manufacturer, licensed importer, or licensed dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any semiautomatic assault weapon manufactured or imported after September 13, 1994, to a person specified in § 178.40(b), or, subject to the provisions of §§ 178.40(c) and 178.132, a licensed manufacturer, a licensed importer, or a licensed dealer.

(c) Since section 922(w), Title 18, U.S.C., makes it unlawful to transfer or possess a large capacity ammunition feeding device, except as provided in the law, any person who manufactures, imports, or deals in such devices and who intends to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any large capacity ammunition feeding device manufactured or imported after September 13, 1994, to a person specified in § 178.40a(b), or, subject to the provisions of §§ 178.40a(c) and 178.132, a person who manufactures, imports, or deals in such devices.

Par. 23. Section 178.92 is amended by revising the title of the section, by revising paragraph (a), and by adding paragraph (c) to read as follows:

§ 178.92 Identification of firearms, armor piercing ammunition, and large capacity ammunition feeding devices.

(a) (1) *Firearms.* Each licensed manufacturer or licensed importer of any firearm manufactured or imported shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the licensed manufacturer maintains its place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer.

(2) *Special markings for semiautomatic assault weapons, effective July 5, 1995.* In the case of any semiautomatic assault weapon manufactured after September 13, 1994, the frame or receiver shall be marked ''RESTRICTED LAW ENFORCEMENT/ GOVERNMENT USE ONLY'' or, in the case of weapons manufactured for export, ''FOR EXPORT ONLY,'' in the manner prescribed in paragraph (a)(1) of this section.

(3) *Exceptions.*

(i) *Alternate means of identification.* The Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(ii) *Destructive devices.* In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

(iii) *Machine guns, silencers, and parts.* A firearm frame or receiver, or any part defined as a machine gun, firearm muffler, or firearm silencer in § 178.11, which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(b) * * *

(c) *Large capacity ammunition feeding devices manufactured after September 13, 1994.* (1) Each person who manufactures or imports any large capacity ammunition feeding device manufactured or imported after September 13, 1994, shall legibly identify each such device with a serial number. Such person may use the same serial number for all large capacity ammunition feeding devices produced or imported.

(i) Additionally, in the case of a domestically made large capacity ammunition feeding device, such device shall be marked with the name, city and State (or recognized abbreviation thereof) of the manufacturer;

(ii) And in the case of an imported large capacity ammunition feeding device, such device shall be marked:

(A) With the name of the manufacturer, country of origin, and,

(B) Effective July 5, 1995, the name, city and State (or recognized abbreviation thereof) of the importer.

(iii) Further, large capacity ammunition feeding devices manufactured or imported after September 13, 1994, shall be marked ''RESTRICTED LAW ENFORCEMENT/ GOVERNMENT USE ONLY'' or, in the case of devices manufactured for export, effective July 5, 1995, ''FOR EXPORT ONLY.''

(2) All markings required by this paragraph (c) shall be cast, stamped, or engraved on the exterior of the device. In the case of a magazine, the markings shall be placed on the magazine body.

(3) *Exceptions.*

(i) *Metallic links.* Persons who manufacture or import metallic links for use in the assembly of belted ammunition are only required to place the identification marks prescribed in paragraph (c)(1) of this section on the containers used for the packaging of the links.

(ii) *Alternate means of identification.* The Director may authorize other means of identifying large capacity ammunition feeding devices upon receipt of a letter application, in duplicate, from the manufacturer or importer showing that such other identification is reasonable and will not hinder the effective administration of this part.

Par. 24. Section 178.99(c) is amended by removing the word ''or'' at the end of paragraph (c)(6), by removing the period at the end of paragraph (c)(7) and replacing it with ''; or'', and by adding paragraph (c)(8) to read as follows:

§ 178.99 Certain prohibited sales or deliveries.

* * * * *

(c) * * *

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(ii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

* * * * *

Par. 25. Section 178.119 is added to Subpart G to read as follows:

§ 178.119 Importation of large capacity ammunition feeding devices manufactured after September 13, 1994.

(a) No large capacity ammunition feeding device manufactured after September 13, 1994, shall be imported or brought into the United States unless the Director has authorized the importation of such device.

(b) An application for a permit, ATF Form 6, to import or bring a large capacity ammunition feeding device into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and address of the person importing the device,

(2) A description of the device to be imported, including model, caliber, size, country of manufacture, and name of the manufacturer,

(3) The unit cost of the device to be imported,

(4) The country from which to be imported,

(5) The name and address of the foreign seller and the foreign shipper,

(6) Verification that such device will be marked as required by this part, and

(7) A statement by the importer that the device is being imported for sale to purchasers specified in § 178.40a(b).

(c) If the Director approves the application, such approved application shall serve as the permit to import the device described therein, and importation of such devices may continue to be made by the person importing such devices under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the person importing such devices shall be notified of the basis for the disapproval.

(d) A large capacity ammunition feeding device imported or brought into the United States by a person importing such a device may be released from Customs custody to the person importing such a device upon showing that such person has obtained a permit from the Director for the importation of the device to be released. In obtaining the release from Customs custody of such a device authorized by this section to be imported through use of a permit, the person importing such a device shall prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the device. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name and address of the person importing the device, the name of the manufacturer of the device, the country of manufacture, the type, model, caliber, size, and the number of devices released.

(e) Within 15 days of the date of release from Customs custody, the person importing such a device shall:

(1) Forward to the address specified on the form a copy of ATF Form 6A on which shall be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs, and

(2) Pursuant to § 178.92, place all required identification data on each imported device if same did not bear such identification data at the time of its release from Customs custody.

(Paragraphs (a), (b), and (c) approved by the Office of Management and Budget under control numbers 1512–0017 and 1512–0018; paragraphs (d) and (e) approved by the Office of Management and Budget under control number 1512–0019)

Par. 26. Section 178.127 is amended by revising the second sentence to read as follows:

§ 178.127 Discontinuance of business.

* * * Where discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center, Spring Mills Office Park, 2029 Stonewall Jackson Drive, Falling Waters, West Virginia 25419, or to any ATF office in the region in which the business was located: *Provided, however,* Where State law or local ordinance requires the delivery of records to other responsible authority, the Chief, Firearms and Explosives Licensing Center may arrange for the delivery of the records required by this subpart to such authority: *Provided further,* That where a licensed business is discontinued and succeeded by a new licensee, the records may be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center or to any ATF office in the region in which the business was located.

Par. 27. Section 178.129 is amended by revising paragraph (b), by adding paragraph (e), and by revising the parenthetical text at the end of the section to read as follows:

§ 178.129 Record retention.

* * * * *

(b) *Firearms transaction record, statement of intent to obtain a handgun, reports of multiple sales or other disposition of pistols and revolvers, and reports of theft or loss of firearms.* Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Licensees shall retain each Form 5300.35 for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer. Licensees shall retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for a period of not less than 5 years after the date of sale or other disposition. Licensees shall retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for a period of not less than 5 years after the date the theft or loss was reported to ATF.

* * * * *

(e) *Retention of records of transactions in semiautomatic assault weapons.* The documentation required by §§ 178.40(c) and 178.132 shall be retained in the licensee's permanent records for a period of not less than 5 years after the date of sale or other disposition.

(Paragraph (b) approved by the Office of Management and Budget under control numbers 1512–0520, 1512–0006, and 1512–0524; Paragraph (e) approved by the Office of Management and Budget under control number 1512–0526; all other recordkeeping approved by the Office of Management and Budget under control number 1512–0129)

Par. 28. Sections 178.132 and 178.133 are added to Subpart H to read as follows:

§ 178.132 Dispositions of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers for official use.

Licensed manufacturers, licensed importers, and licensed dealers in semiautomatic assault weapons, as well as persons who manufacture, import, or deal in large capacity ammunition feeding devices, may transfer such weapons and devices manufactured after September 13, 1994, to law enforcement officers with the following documentation:

(a) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon is being purchased for use in performing official duties and that the weapon is not being acquired for personal use or for purposes of transfer or resale; and

(b) A written statement from a supervisor of the purchasing officer, under penalty of perjury, stating that the purchasing officer is acquiring the weapon for use in official duties, that the firearm is suitable for use in performing official duties, and that the weapon is not being acquired for personal use or for purposes of transfer or resale.

(Approved by the Office of Management and Budget under control number 1512–0526)

§ 178.133 Records of transactions in semiautomatic assault weapons.

The evidence specified in § 178.40(c), relating to transactions in semiautomatic assault weapons, shall be retained in the permanent records of the manufacturer or dealer and in the records of the licensee to whom the weapons are transferred.

(Approved by the Office of Management and Budget under control number 1512–0526)

Par. 29. Section 178.152(a) is revised to read as follows:

§ 178.152 Seizure and forfeiture.

(a) Any firearm or ammunition involved in or used in any knowing

violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act: *Provided,* That upon acquittal of the owner or possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

* * * * *

Par. 30. Section 178.153 is added to Subpart I to read as follows:

§ 178.153 Semiautomatic assault weapons and large capacity ammunition feeding devices manufactured or imported for the purposes of testing or experimentation.

The provisions of § 178.40 with respect to the manufacture, transfer, or possession of a semiautomatic assault weapon, and § 178.40a with respect to large capacity ammunition feeding devices, shall not apply to the manufacture, transfer, or possession of such weapons or devices by a manufacturer or importer for the purposes of testing or experimentation as authorized by the Director. A person desiring such authorization shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant, the nature or purpose of the testing or experimentation, a description of the weapons or devices to be manufactured or imported, and the source of the weapons or devices. The approved application shall be retained as part of the records required by Subpart H of this part.

Par. 31. Section 178.171 is amended by revising the last sentence to read as follows:

§ 178.171 Exportation.

* * * Licensed manufacturers and licensed importers exporting armor piercing ammunition and semiautomatic assault weapons manufactured after September 13, 1994, shall maintain records showing the name and address of the foreign consignee and the date the armor piercing ammunition or semiautomatic assault weapons were exported.

PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Par. 32. The authority citation for 27 CFR part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

§§ 179.34, 179.36, 179.42, 179.46, 179.47, and 179.50 [Amended]

Par. 33. Sections 179.34, 179.36, 179.42, 179.46, 179.47, and 179.50 are amended by removing ''5630.5'' wherever it occurs and, adding in its place, ''5630.7.''

Par. 34. Section 179.34(e) is added to read as follows:

§ 179.34 Special tax registration and return.

* * * * *

(e) *Identification of taxpayer.* If the taxpayer is an individual, with the initial return such person shall securely attach to Form 5630.7 a photograph of the individual 2 × 2 inches in size, clearly showing a full front view of the features of the individual with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 6 months prior to the date of completion of the return. The individual shall also attach to the return a properly completed FBI Form FD–258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them: *Provided,* That the provisions of this paragraph shall not apply to individuals who have filed with ATF a properly executed Application for License under 18 U.S.C. Chapter 44, Firearms, ATF Form 7 (5310.12) (12–93 edition), as specified in § 178.44(a).

Signed: February 10, 1995.

Daniel R. Black,

Acting Director.

Approved: February 27, 1995.

John P. Simpson,

Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–8233 Filed 4–3–95; 4:18 pm]

BILLING CODE 4810–31–U

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Civil Division Directive No. 14–95]

Redelegation by Civil Division of Authority to Compromise Civil Claims

AGENCY: Department of Justice, Civil Division.

ACTION: Final rule.

SUMMARY: This Directive implements a recent Attorney General order that increased settlement and compromise authority that the Assistant Attorneys General of the litigating divisions may redelegate to United States Attorneys in civil matters. This Directive, which supersedes Civil Division Directive 176–91, is being promulgated in order to increase Department efficiency.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Robert M. Hollis, Assistant Director, Commercial Litigation Branch, Civil Division, Department of Justice, room 11022, 550 11th Street NW., Washington, DC 20530; (202) 307–1100.

SUPPLEMENTARY INFORMATION: This Directive implements on behalf of the Civil Division the increase in the dollar amount of settlement authority which the Assistant Attorneys General may redelegate to United States Attorneys in civil matters. This increase in United States Attorney authority will further the efficient operation of the Department of Justice.

As a regulation related to internal Department of Justice management, this rule may become effective without provision for public comment pursuant to 5 U.S.C. § 553(b)(A). This Directive is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, it has not been reviewed by the Office of Management and Budget. Pursuant to 5 U.S.C. § 605(b), the Assistant Attorney General for the Civil Division certifies that because the effect of this Directive is internal to the Department of Justice it will not have a significant adverse economic impact on a substantial number of small business entities.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

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

PART 0—[AMENDED]

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. § 301, 28 U.S.C. §§ 509, 510, 515–519.

2. In the Appendix to Subpart Y, Civil Division Directive No. 176–91 is removed and Civil Division Directive 14–95 is added in its place to read as follows:

Appendix to Subpart Y—Redelegations of Authority To Compromise and Close Civil Claims

* * * * *

[Directive No. 14–95]

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, particularly §§ 0.45, 0.160, 0.164, and 0.168, it is hereby ordered as follows:

Section 1. Authority To Compromise or Close Cases and to File Suits and Claims

(a) Delegation to Deputy Assistant Attorneys General. The Deputy Assistant Attorneys General are authorized to act for, and to exercise the authority of, the Assistant Attorney General in charge of the Civil Division with respect to the institution of suits, the acceptance or rejection of compromise offers, and the closing of claims or cases, unless any such authority is required by law to be exercised by the Assistant Attorney General personally or has been specifically delegated to another Department official.

(b) Delegation to United States Attorneys, Branch, Office and Staff Directors and Attorneys-in-Charge of Field Offices. Subject to the limitations imposed by 28 CFR 0.160(c), and 0.164(a) and section 4(c) of this directive, and the authority of the Solicitor General set forth in 28 CFR 0.163,

(1) Branch, Office, and Staff Directors, and Attorneys-in-Charge of Field Offices with respect to matters assigned or delegated to their respective components are hereby delegated the authority to:

(a) Accept offers in compromise of claims on behalf of the United States;

(i) In all cases in which the gross amount of the original claim did not exceed $500,000; and,

(ii) In all cases in which the gross amount of the original claim was between $500,000 and $5,000,000, so long as the difference between the gross amount of the original claim and the proposed settlement does not exceed $500,000 or 15 percent of the original claim, whichever is greater;

(b) Accept offers in compromise of, or settle administratively, claims against the United States in all cases where the principal amount of the proposed settlement does not exceed $500,000; and,

(c) Reject any offers.

(2) United States Attorneys with respect to matters assigned or delegated to their respective components are hereby delegated the authority to:

(a) Accept offers in compromise of claims on behalf of the United States;

(i) In all cases in which the gross amount of the original claim did not exceed $1,000,000 and,

(ii) In all cases in which the gross amount of the original claim does not exceed $5,000,000, and in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $1,000,000;

(b) Accept offers in compromise of, or settle administratively, claims against the United States in all cases where the principal amount of the proposed settlement does not exceed $1,000,000 and,

(c) Reject any offers.

(3) With respect to claims asserted in bankruptcy proceedings, the term *gross amount of the original claim* in (1) (a) and (b), and (2) (a) and (b) above means liquidation value. *Liquidation value* is the forced sale value of the collateral, if any, securing the claim(s) plus the dividend likely to be paid for the unsecured portion of the claim(s) in an actual or hypothetical liquidation of the bankruptcy estate.

(c) Subject to the limitations imposed by sections 1(e) and 4(c) of this directive, United States Attorneys, Directors, and Attorneys-in-Charge are authorized to file suits, counterclaims, and cross-claims, to close, or to take any other action necessary to protect the interests of the United States in all routine nonmonetary cases, in all routine loan collection and foreclosure cases, and in other monetary claims or cases where the gross amount of the original claim does not exceed $500,000, or in the case of United States Attorneys, $1,000,000. Such actions in nonmonetary cases which are other than routine will be submitted for the approval of the Assistant Attorney General, Civil Division.

(d) United States Attorneys may redelegate in writing the above-conferred compromise and suit authority to Assistant United States Attorneys who supervise other Assistant United States Attorneys who handle civil litigation.

(e) Limitations on delegations. The authority to compromise cases, file suits, counter-claims, and cross-claims, to close cases, or take any other action necessary to protect the interests of the United States, delegated by paragraphs (a) and (b) of this section, may not be exercised, and the matter shall be submitted for resolution to the Assistant Attorney General, Civil Division, when:

(1) For any reason, the proposed action, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated in the above paragraphs.

(2) Because a novel question of law or a question of policy is presented, or for any other reason, the proposed action should, in the opinion of the officer or employee concerned, receive the personal attention of the Assistant Attorney General, Civil Division.

(3) The agency or agencies involved are opposed to the proposed action. The views of an agency must be solicited with respect to any significant proposed action if it is a party, if it has asked to be consulted with respect to any such proposed action, or if such proposed action in a case would adversely affect any of its policies.

(4) The U.S. Attorney involved is opposed to the proposed action and requests that the matter be submitted to the Assistant Attorney General for decision.

(5) The case is on appeal, except as determined by the Director of the Appellate Staff.

Section 2. Action Memoranda

(a) Whenever an official of the Civil Division or a United States Attorney accepts a compromise, closes a claim or files a suit or claim pursuant to the authority delegated by this Directive, a memorandum fully explaining the basis for the action taken shall be executed and placed in the file. In the case of matters compromised, closed, or filed by United States Attorneys, a copy of the memorandum must be sent to the appropriate Branch or Office of the Civil Division.

(b) The compromising of cases or closing of claims or the filing of suits for claims, which a United States Attorney is not authorized to approve, shall be referred to the appropriate Branch or Office within the Civil Division, for decision by the Assistant Attorney General or the appropriate authorized person within the Civil Division. The referral memorandum should contain a detailed description of the matter, the United States Attorney's recommendation, the agency's recommendation where applicable, and a full statement of the reasons therefor.

Section 3. Return of Civil Judgment Cases to Agencies

Claims arising out of judgments in favor of the United States which cannot be permanently closed as uncollectible may be returned to the referring Federal agency for servicing and surveillance whenever all conditions set forth in USAM 4–2.230 have been met.

Section 4. Authority for Direct Reference and Delegation of Civil Division Cases to United States Attorneys

(a) Direct reference to United States Attorneys by agencies. The following civil actions under the jurisdiction of the Assistant Attorney General, Civil Division, may be referred by the agency concerned directly to the appropriate United States Attorney for

handling in trial courts, subject to the limitations imposed by paragraph (c) of this section. United States Attorneys are hereby delegated the authority to take all necessary steps to protect the interests of the United States, without prior approval of the Assistant Attorney General, Civil Division, or his representations, subject to the limitations set forth in section 1(e) of this directive. Agencies may, however, if special handling is desired, refer these cases to the Civil Division. Also, when constitutional questions or other significant issues arise in the course of such litigation, or when an appeal is taken by any party, the Civil Division should be consulted.

(1) Money claims by the United States, except claims involving penalties and forfeitures, where the gross amount of the original claim does not exceed $1,000,000.

(2) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development, the Veterans Administration and the Farmers Home Administration.

(3) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 213, 215, 216, 222, and 228a, the Perishable Agricultural Commodities Act, 1930, 7 U.S.C. 499c(a) and 499h(d), the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*, the Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.*, the Cotton Research and Promotion Act of 1966, 7 U.S.C. 2101 *et seq.*, the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*, and the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601 *et seq.*

(4) Suits by social security beneficiaries under the Social Security Act, 42 U.S.C. 402 *et seq.*

(5) Social Security disability suits under 42 U.S.C. 423 *et seq.*

(6) Black lung beneficiary suits under the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921 *et seq.*

(7) Suits by Medicare beneficiaries under 42 U.S.C. 1395ff.

(8) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments and actions for general debt, 5 U.S.C. 5520a.

(9) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retail food stores.

(10) Cases referred by the Department of Labor for the collection of penalties or for injunctive action under the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970.

(11) Cases referred by the Department of Labor solely for the collection of civil penalties under the Farm Labor Contractor Registration Act of 1963, 7 U.S.C. 2048(b).

(12) Cases referred by the Interstate Commerce Commission to enforce orders of the Interstate Commerce Commission or to enjoin or suspend such orders pursuant to 28 U.S.C. 1336.

(13) Cases referred by the United States Postal Service for injunctive relief under the nonmailable matter laws, 39 U.S.C. 3001 *et seq.*

(b) Delegation to United States Attorneys. Upon the recommendation of the appropriate Director, the Assistant Attorney General, Civil Division may delegate to United States Attorneys suit authority involving any claims or suits where the gross amount of the original claim does not exceed $5,000,000 where the circumstances warrant such delegations. United States Attorneys may compromise any case redelegated under this subsection in which the gross amount of the original claim does not exceed $5,000,000, so long as the difference between the gross amount of the original claim and the proposed settlement does not exceed $1,000,000. United States Attorneys may close cases redelegated to them under this subsection only upon the authorization of the appropriate authorized person within the Department of Justice. All delegations pursuant to this subsection shall be in writing and no United States Attorney shall have authority to compromise or close any such delegated case or claim except as is specified in the required written delegation or in section 1(c) of this directive. The limitations of section 1(e) of this directive also remain applicable in any case or claim delegated hereunder.

(c) Cases not covered. Regardless of the amount in controversy, the following matters normally will not be delegated to United States Attorneys for handling but will be personally or jointly handled or monitored by the appropriate Branch or Office within the Civil Division:

(1) Civil actions in the Court of Federal Claims.

(2) Cases within the jurisdiction of the Commercial Litigation Branch involving patents, trademarks, copyrights, etc.

(3) Cases before the United States Court of International Trade.

(4) Any case involving bribery, conflict of interest, breach of fiduciary duty, breach of employment contract, or exploitation of public office.

(5) Any fraud or False Claims Act case where the amount of single damages, plus civil penalties, if any, exceeds $1,000,000.

(6) Any case involving vessel-caused pollution in navigable waters.

(7) Cases on appeal, except as determined by the Director of the Appellate Staff.

(8) Any case involving litigation in a foreign court.

(9) Criminal proceedings arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(10) Nonmonetary civil cases, including injunction suits, declaratory judgment actions, and applications for inspection warrants, and cases seeking civil penalties including but not limited to those arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(11) Administrative claims arising under the Federal Tort Claims Act.

Section 5. Adverse Decisions

All final judicial decisions adverse to the Government involving any direct reference or delegated case must be reported promptly to the Assistant Attorney General, Civil Division, attention Director, Appellate Staff. Consult title 2 of the United States Attorney's Manual for procedures and time limitations. An appeal cannot be taken without approval of the Solicitor General. Until the Solicitor General has made a decision whether an appeal will be taken, the Government attorney handling the case must take all necessary procedural actions to preserve the Government's right to take an appeal, including filing a protective notice of appeal when the time to file a notice of appeal is about to expire and the Solicitor General has not yet made a decision. Nothing in the foregoing directive affects this obligation.

Section 6. Supersession

This directive supersedes Civil Division Directive No. 176–91 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to Branch Directors, heads of offices and United States Attorneys.

Section 7. Applicability

This directive applies to all cases pending as of the date of this directive and is effective immediately.

Approved: March 27, 1995.

Frank W. Hunger,

Assistant Attorney General, Civil Division.

Dated March 27, 1995.

John R. Schmidt,

Associate Attorney General.

[FR Doc. 95–8482 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Iowa Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Iowa regulatory program (hereinafter referred to as the ''Iowa program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Iowa proposed revisions to rules pertaining to rulemaking petitions, definitions, permit processing, permit revisions, bonding, backfilling and grading, alternative enforcement, and individual civil penalties. The amendment is intended to revise the Iowa program to be consistent with the

corresponding Federal standards, to clarify ambiguities, and to improve operational efficiency.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Iowa program. General background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885). Subsequent actions concerning Iowa's program and program amendments can be found at 30 CFR 915.15 and 915.16.

II. Proposed Amendment

By letter dated April 13, 1994, Iowa submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. IA–397). Iowa submitted the proposed amendment with the intent of satisfying the required program amendments codified at 30 CFR 915.6 (a) and (b), and at Iowa's own initiative to improve the operation of its program. The provisions of the Iowa Administrative Code (IAC) that Iowa proposed to revise were: IAC 27–40.3(207), 27–40.4(9), 27–40.31(14), 27–40.32(207), 27–40.51(7), 27–40.63(2), 27–40.74(3), and 27–40.75(2).

OSM announced receipt of the proposed amendment in the May 5, 1994, **Federal Register** (59 FR 23177), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. IA–402). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 6, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of IAC 27–40.32 (permit revisions), 27–40.51(7) (application for bond release), and 27–40.75(2) (individual civil penalties). OSM notified Iowa of the concerns by issue letter dated October 3, 1994 (Administrative Record No. IA–407).

Iowa responded in a letter dated November 8, 1994, by submitting a revised amendment (Administrative Record No. IA–408). Iowa proposed additional revisions to IAC 27–40.32 (permit revisions), 27–40.51(7) (bond release application), and 27–40.75(2) (individual civil penalties).

Based upon the revisions to the proposed program amendment submitted by Iowa, OSM reopened the public comment period in the November 23, 1994, **Federal Register** (59 FR 60341; Administrative Record No. IA–410). The public comment period ended on December 8, 1994.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Iowa on April 13, 1994, and as revised by it on November 8, 1994, is no less effective than the corresponding Federal regulations in meeting SMCRA's requirements. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to Iowa's Rules

Iowa proposed revisions to the following previously-approved rules that are nonsubstantive in nature and consist of minor editorial and recodification changes (corresponding Federal regulation provisions are listed in parentheses):

IAC 27–40.32(3)a. 3. & 4. (no corresponding Federal provisions), requirements for permit amendment or revision;

IAC 27–40.32(5) (30 CFR 773.11(a)), permit renewal not required when only Phase III bond liability remains on the permit area;

IAC 27–40.32(6) (no corresponding Federal provision, additions to the Federal requirements at 30 CFR 774.15(b)), contents of permit renewal application; and

IAC 27–40.32(7) (no corresponding Federal provision), modification of the incorporation of Federal regulations by reference so that they cite the correct regulatory authority.

Because the proposed revisions to these previously-approved rules are nonsubstantive in nature, the Director finds that these proposed revisions to the Iowa rules are no less effective than the Federal regulations in meeting SMCRA's requirements, and approves these proposed revisions.

2. Substantive Revisions to Iowa's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Iowa proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

IAC 27–40.4(9) (30 CFR 701.5, definition of ''previously mined area'').

IAC 27–40.32(3)a. (introductory text) (30 CFR 774.13(a)), permittee right to submit application for permit revision/amendment.

IAC 27–40.32(3)a.2. (30 CFR 774.11 (b) & (c)), right of regulatory authority to order permit revision/amendment, and administrative and judicial review of such orders.

Because these proposed Iowa rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations in meeting SMCRA's requirements and approves these proposed revisions.

The Director further notes that the revision to IAC 27–40.4(9) (definition of ''previously mined area'') satisfies a required program amendment codified at 30 CFR 915.16(a)(1) that was imposed on November 6, 1991 (56 FR 56578, 56594), and is removing this requirement.

3. IAC 27–40.3(207). General Provisions of Regulatory Program

Iowa proposes to add a new paragraph providing that ''[i]n lieu of the regulations deleted at 30 CFR 700.12 concerning 'Petitions to initiate rulemaking,' rules of the Iowa Department of Agriculture and Land Stewardship at 21 IAC Chapter 3, 'Petitions for Rulemaking' shall serve as the basis for submitting petitions to initiative rulemaking.''

Iowa had previously submitted the referenced rules as part of an earlier program amendment, and OSM found them to be no less effective than the Federal regulations at 30 CFR 700.12 that Iowa chose not to incorporate by reference in its program. However, in that earlier amendment Iowa was required to further amend its program to include a clear reference to these State rules within its regulatory program (see 59 FR 5709, 5712; February 8, 1994; Finding No. 8). The Director finds that Iowa's current proposed program amendment clearly informs the public of where to locate the procedures and requirements for petitions for rulemaking under the Iowa regulatory program, and approves the proposal. Additionally, the proposal satisfies a required program amendment codified at 30 CFR 915.16(b)(1) that was imposed on February 8, 1994 (59 FR 5709, 5723); therefore the Director is removing this requirement.

4. IAC 27–40.31(14). Requirements for Permits and Permit Processing

Iowa proposes to delete and reserve this subrule, which adds to Iowa's incorporation by reference of 30 CFR 773.15(a)(2) the words ''[i]n case willful suppressing or falsifying of any facts or data is identified, the division may require the applicant to reapply for the same area.'' OSM notes that 30 CFR 773.15(a)(2) provides that in the review of applications for permits or permit revisions, the applicant has the burden of proof that the application is in compliance with all requirements of the regulatory program.

Iowa previously proposed this added language in a program amendment, but OSM found that under SMCRA Section 510(b)(1) and 30 CFR 773.15(c)(1) (Iowa counterpart provisions at Iowa Code 207.9(2)(a) and (IAC 27–40.31), if such willful suppressing or falsification of any facts or data in a permit application is identified, the regulatory authority would have no discretion and would be required to deny the permit. OSM thus found this Iowa subrule to conflict with SMCRA and the Federal regulations, and did not approve this subrule (see 59 FR 5709, 5714; February 8, 1994; Finding No. 13b). Iowa, in response, is now proposing to delete this unapproved language. OSM notes that the Iowa program, in the general incorporation by reference at IAC 27–40.31(207) of the Federal regulations at 30 CFR Part 773, continues to incorporate 30 CFR 773.15(a)(2) by reference. For the reasons specified in the February 8, 1994, **Federal Register,** the Director finds that the proposed deletion of this added language is not inconsistent with SMCRA or the Federal regulations, and is approving the deletion.

5. IAC 27–40.32(207). Permit Revision/ Amendment, Renewal, Transfer

Iowa proposes to delete its incorporation by reference of the Federal regulations at 30 CFR Part 774, as in effect on July 1, 1992 (with some exceptions and additions), and to add a new incorporation by reference of those same Federal regulations, but with a different set of exceptions and additions. Some of these new exceptions and additions are substantively the same as the old exceptions and additions, and have been addressed in Finding No. 1 above; others of the new additions are substantively the same as certain Federal regulatory provisions, and have been addressed in Finding No. 2 above; and the remainder of the exceptions and additions are discussed below.

a. IAC 27–40.32(1) Permit Revision/ Amendment Orders

Iowa proposes at IAC 27–40.32(1) not to incorporate into its program by reference the Federal requirements at 30 CFR 774.11 (b) and (c). However, as noted in Funding No. 2 above, Iowa is also proposing to add at IAC 27–40.32(3)a.2. requirements that are substantively the same as these Federal requirements. Therefore the Director approves the proposal at IAC 27–40.32(1) to delete 30 CFR 774.11 (b) and (c) from the new incorporation by reference.

b. IAC 27–40.32(2) Revisions Versus Amendments

Iowa proposes to use the term ''revision''; to describe changes to permits that constitute significant departures from the approved permit, and to use the term ''amendment'' to describe changes that do not constitute significant departures. Iowa further proposes that significant departures shall be any change in permit area, mining method or reclamation procedure which would, in the opinion of the Iowa regulatory authority, significantly change the effect that mining operations would have on persons impacted by the permitted operation, on cultural resources, or on the environment. Finally, Iowa proposes to delete the incorporation by reference of the Federal regulations at 30 CFR 774.13 (permit revisions), except that the notice, public participation, and notice of decision requirements of 30 CFR 773.13, 773.19(b), and 778.21 would apply to all ''revisions'' (i.e., to all significant departures). A related requirement at proposed IAC 227–40.32(3)c. would require that any application for either revision or amendment must provide replacement documentation fully describing the proposed changes, in the same detail as required in the original permit.

The Federal regulations at 30 CFR 774.13(b)(2) require regulatory authorities to establish guidelines which establish the scale or extent of permit revisions for which all of the permit application information requirements and permit application procedures of the Federal regulations (including the notice, public participation, and notice of decision requirements of §§ 773.13, 773.19(b) (1) & (3), and 778.21) shall apply, with the proviso that such requirements and procedures must apply at a minimum to all significant revisions.

The Director finds that Iowa, by (1) defining ''revision'' and ''amendment,'' (2) requiring that the specified procedural requirements (notice, public participation, etc.) apply to all ''revisions,'' and (3) requiring that revision and amendment applications contain replacement documentations in the same detail as the original permit, has established guidelines as required by 30 CFR 774.13(b)(2). Further, Iowa's proposed definitions assure that these requirements and procedures requirements will apply to all significant permit changes, as required by the proviso in that Federal regulation.

Regarding Iowa's proposal to delete the incorporation by reference of the Federal regulations at 30 CFR 774.13, OSM has reviewed Iowa's proposal and has determined that it incorporates counterpart requirements for each of the provisions of § 774.13 other than the one specifically discussed above (§ 774.13(b)(2)). As discussed in Finding No. 2 above and Finding No. 5c below, counterparts of those Federal provisions are incorporated in Iowa's proposed rules as follows (proposed IAC counterparts in parentheses): § 774.13(a) (IAC 27–40.32(3)a, introductory text); § 774.13(b)(1) (IAC 27–40.32(3)b.); § 774.13(c) (IAC 27–40.32(3)d.); and § 774.13(d) (IAC 27–40.32(3)e.). Based on the discussion in Finding Nos. 2 and 5c regarding these provisions, the Director finds that Iowa's proposal at IAC 27–40.32(2) not to incorporate 30 CFR 774.13 does not render the Iowa program less effective than § 774.13 in meeting SMCRA's requirements.

In summary, the Director finds Iowa's definitions of ''revision'' and ''amendment'' to be in accordance with the Federal regulations at 30 CFR 774.13(b)(2), and the deletion of the incorporation by reference of most of 30 CFR 774.13 to be no less effective than the Federal regulations in meeting SMCRA's requirements; the Director is therefore approving proposed IAC 27–40.32(2). Additionally, the proposal satisfies a required program amendment, codified at 30 CFR 915.16(a)(5), that was imposed on November 6, 1991 (56 FR 56578, 56594), and later modified on February 8, 1994 (59 FR 5709, 5723); the Director is therefore removing this requirement.

c. IAC 27–40.32(3) Requirements for Revisions and Amendments

1. *Permit changes that require either a permit revision or a permit amendment.* Iowa proposes at IAC 27–40.32(3)a.1. that either a revision or an amendment is required for any change in the approved permit; further, all information related to approved revisions or amendments must be

updated in all public copies of the permit.

The Federal regulations at 30 CFR 774.13 do not directly address this issue. However, in the preamble to the Federal regulations at 30 CFR 774.13(b)(2), dated September 28, 1993 (48 FR 44344, 44377), OSM clarified its interpretation of these regulations that all changes must be approved and incorporated into the permit:

> Under the final rule, the regulatory authority will establish the guidelines for revisions. However, all revisions must be approved and incorporated into the permit since they are changes to that document. The permit and all public copies of it should reflect all revisions approved by the regulatory authority so that all interested persons, including inspectors, the operator, and the public, will have an accurate copy of the permit. The permit is the document which authorizes the operator to mine and must be accurate.

The Director finds Iowa's proposal to be consistent with this interpretation and is approving the proposal.

2. *Timeframes for decisions on applications.* Iowa proposes at IAC 27–40.32(3)b. that applications for permit revisions will be approved or disapproved within 90 days following a determination of completeness, and that an application for an amendment will be approved or disapproved within 60 days of submittal of the application.

The Federal regulations at 30 CFR 774.13(b)(1) do not specify timeframes for action on revision applications, but rather require regulatory authorities to establish time periods for such approvals or disapprovals. The Director finds that Iowa's proposal establishes such time periods and that the time periods will ensure that operators receive timely decisions. Therefore the Director is approving the proposal.

3. *Administrative and judicial review.* Iowa proposes at IAC 27–40.32(3)c. that: ''[a]ny application for an amendment or a revision under these rules shall, at a minimum, be subject to the requirements of Part 9 of these rules * * *.'' OSM notes that Part 9 of Iowa's rules contains, among other things, the requirements for administrative and judicial review of Iowa permit actions; it thus contains the Iowa program counterparts to 30 CFR Part 775 (administrative and judicial review of permit decisions).

The Federal regulations at 30 CFR 775.11(a) provide that decisions on applications for any permit revision (whether significant or insignificant) are subject to administrative review; under section 775.13(a), any administrative review decision (including administrative review of any permit revision application decision) is subject to judicial review. The Director finds that Iowa's proposal is consistent with these requirements and is approving the proposal.

4. *Criteria for approval.* Iowa proposes to add at IAC 27–40.32(3)d. three criteria for the approval of applications for permit revisions and amendments. The criteria proposed are: (1) That no such application shall be approved unless the application demonstrates, and the Iowa regulatory authority finds, that the reclamation as required by Iowa's Act and the regulatory program can be accomplished; (2) that the application complies with all requirements of the Act and the regulatory program; and (3) that ''any applicable requirements of written findings for the permit have also been met.''

The Federal regulations at 30 CFR 774.13(c) require that no application for a permit revision shall be approved unless the application demonstrates and the regulatory authority finds: (1) That reclamation as required by SMCRA and the regulatory program can be accomplished; (2) that the application complies with all requirements of SMCRA and the regulatory program; and (3) that ''applicable requirements under section 773.15(c) which are pertinent to the revision are met.'' The cited rule, 30 CFR 773.15(c), specifies written findings for application approval, and, as applied to an application for a significant revision, requires that the application not be approved unless the application affirmatively demonstrates, and the regulatory authority finds in writing, that several specified requirements, where applicable, have been met.

The first two of Iowa's proposed criteria are substantively the same as those specified in the Federal regulations. The third criterion, written findings, is in one way more stringent than the Federal requirement because it is applied to both revision and amendment applications, whereas under the Federal regulations this criterion is applied only to applications for significant revisions. Under SMCRA section 505(b) and 30 CFR 730.11(b), no State regulation which provides for more stringent regulation of surface coal mining and reclamation operations than do the Federal regulations shall be construed to be inconsistent with SMCRA or with the Federal regulations.

OSM does not find, however, that this proposed third criterion (''and any applicable requirements of written findings for the permit have also been met'') clearly requires that new findings be written (if applicable) for approval of the amendment or revision. Instead, Iowa's proposed language could be interpreted to be limited to requiring consistency of the revision/amendment application with the written findings of the original permit approval; such an interpretation would be less effective than the third criterion of the Federal regulation. However, OSM notes that Iowa added this criterion in its revised amendment of November 8, 1994 (Administrative Record No. IA–408), which responded to OSM's letter of October 3, 1994 (Administrative Record No. IA–407); in that letter, OSM had indicated to Iowa that its initial submittal was deficient in not containing a counterpart to OSM's criterion for written findings. In its revised amendment of November 8, 1994, Iowa indicates that this proposed language was intended to address that deficiency. OSM therefore concludes that Iowa intends its language to be interpreted in accordance with the requirements of the Federal regulation criterion; i.e., that Iowa intends that new written findings are required, if applicable, prior to approving an application for permit amendment or revision. Based on this understanding, the Director finds Iowa's proposal at IAC 27–40.32(3)d. to be no less effective than 30 CFR 774.13(c) in meeting SMCRA's requirements, and the Director is approving the proposal.

5. *Additions of area.* Iowa proposes at IAC 27–40.32(3)e. that any increase in permit area, except incidental boundary revisions (hereinafter, ''IBR's''), shall not be approved under ''this subrule'' (i.e., neither as a permit revision nor as an amendment), but rather ''shall be treated as'' a new permit application. Iowa additionally proposes that IBR's are considered as significant departures and hence shall be treated as revisions;' that a total of 20 acres of IBR's would be allowed over the life of the permit, with individual increments subject to approval by Iowa (presumably under other criteria for determining ''incidental''); and lastly, that applications for IBR's shall include a demonstration that the proposed additional permit area is contiguous to the approved permit.

OSM interprets Iowa's proposed language that increases in permit area (other than IBR's) ''shall be treated as a new permit application'' to mean that any application for increased area (unless it meets the criteria for an IBR) will be subjected to all the entire procedural and substantive requirements for a new permit application under IAC 27–40.31(207, 27–40.33(207), 27–40.34(207), 40–27.35 or .37(207), 27–40.36 or .38(207), and

27–40.39(207). Under IAC 27–40.4(207) and 27–40.31(207), this would include the requirement that increases in permit area (other than IBR's) be made by means of an ''administratively complete application.''

The Federal regulations at 30 CFR 774.13(d) provide that any extension to the permit area, except IBR's, shall be made by application for a new permit. The Federal regulations provide no guidance as to what constitutes an ''incidental'' boundary revision.

Iowa's proposal, under OSM's interpretation stated above, would require additions other than IBR's to be made by application for a new permit. It places an upper limit on the amount of area that may be added by IBR's and requires that IBR's be contiguous to the permit; these proposed requirements add specificity to aid Iowa in determining what constitutes an ''incidental'' boundary revision. For these reasons the Director finds proposed IAC 27–40.32(3)e. to be consistent with the Federal regulations at 30 CFR 774.13(d) in meeting SMCRA's requirements, and is approving the proposal.

6. IAC 27–40.51(7). Time Requirements for Processing of Bond Release Applications

At IAC 27–40.51(7), Iowa previously proposed to modify 30 CFR 800.40(a)(2) (as incorporated by reference) by requiring the regulatory authority to determine that an application for bond release is complete before the bond release application is advertised. OSM did not approve that proposal because it would create conflicts with other required time frames in the processing of bond release applications (see 59 FR 5709, 5718; February 8, 1994; Finding No. 22).

Iowa now proposes to delete that unapproved modification of 30 CFR 800.40(a)(2); thus, under IAC 27–40.51(207), 30 CFR 800.40(a)(2) would be incorporated without modification. Iowa further proposes to add a new rule at IAC 27–40.51(7) which would provide that an application for bond release will not be considered filed until a written determination of completeness for the bond release application has been provided to the applicant by Iowa, and would further provide that Iowa will make a determination of completeness within 30 days of receipt.

Under the Federal regulations at 30 CFR 800.40, the starting point for all time requirements related to processing bond release applications is the date a bond release application is ''filed;'' but no clarification is provided regarding whether an application must be found to be complete before being considered ''filed.''

In the absence of any contrary indication in the Federal regulations, the concept of requiring a determination of completeness before considering a bond release application ''filed'' would not be considered inconsistent with those Federal regulations, providing other aspects of the bond release process are not adversely affected. One such aspect to be considered is the procedural protection afforded operators by assuring them of timely decisions on bond release applications. Iowa's proposal, by providing a maximum of 30 days for Iowa to make a determination of completeness, provides assurance that decisions on bond release applications will not be unduly delayed.

Further, OSM believes that this proposal will assist Iowa in the efficient administration of its program, and may also serve the interests of operators in obtaining bond releases: if incomplete applications are entered into the strict time frames of these procedures, there may not be sufficient time to resolve all problems before a decision must be rendered, resulting in the automatic denial of the application. This would require the operator to file a new application, which would delay the potential bond release and create an additional unnecessary workload for both the regulatory authority and the operator.

Based on the above discussion, the Director finds that Iowa's proposal at IAC 27–40.51(7) is not inconsistent with the Federal regulations at 30 CFR 800.40, and is approving the proposal.

7. IAC 27–40.63(2). Backfilling & Grading: Time and Distance Requirements

Iowa proposes to incorporate by reference 30 CFR 816.100 and delete the incorporation by reference of 816.101 (both as in effect on July 1, 1992), and add that the following shall apply: rough backfilling and grading for surface mining activities shall be completed within 180 days following coal removal, and not more than four spoil ridges behind the pit being worked (spoil from the active pit constituting the first ridge); except that Iowa may extend the time allowed for the entire permit area or for a specified portion of it if the permittee demonstrates (in accordance with IAC 27–40.36 [30 CFR 780.18(b)(3)]) that additional time is necessary. Iowa adds in a narrative note to the submittal that it intends to adopt time and distance standards only for area mining.

OSM's time and distance requirements at 30 CFR 816.101 were suspended on July 31, 1992 (57 FR 33874). Therefore OSM must evaluate State time and distance requirements against the general contemporaneous reclamation requirements of 30 CFR 816.100. This regulation requires that all reclamation efforts (including backfilling, grading, topsoil replacement, and revegetation) on all land that is disturbed by surface mining activities shall occur as contemporaneously as practicable with mining operations (except when variances are granted for concurrent surface and underground mining activities).

As noted above, Iowa's proposal incorporates the general contemporaneous reclamation requirement of 30 CFR 816.100 by reference. The additional proposed time and distance requirements provide additional specificity to one aspect of the general requirement and is not inconsistent with the general requirement. Regarding Iowa's intention to specify time and distance standards only for area mining, OSM is aware that all recent coal mining in Iowa has been area mining, and because of the geology and geography of Iowa's coal fields it is likely that only area mining will occur in the near future. Should any other type of surface mining occur, it would still be subject to the general requirement of 30 CFR 816.100, which is consistent with the current Federal regulations (given that § 816.101 is suspended).

Based on the above discussion, the Director finds Iowa's proposal at IAC 27–40.63(2) to be consistent with the Federal regulations at 30 CFR 816.100, and is approving the proposal. The Director further notes that the incorporation by reference of 30 CFR 816.100 requires that topsoil replacement occur as contemporaneously as practicable with mining operations, and thus satisfies the required amendment codified at 30 CFR 915.16(b)(2) that was imposed on February 8, 1994 (59 FR 5709, 5723). Therefore the Director is removing this requirement.

8. IAC 27–40.74(3). Alternate Enforcement

Iowa proposes to revise existing incorrect cross-references to the Iowa Code that in this rule replace the cross-references to SMCRA in Iowa's incorporation by reference of 30 CFR 845.15(b)(2). Specifically, Iowa proposes to replace (in its incorporation of 30 CFR 845.15(b)(2) by reference) SMCRA Section 518(e) with Iowa Code Section

207.15(6), SMCRA Section 518(f) with Iowa Code Section 207.15(7), SMCRA Section 521(a)(4) with Iowa Code Section 207.14(3), and SMCRA Section 521(c) with Iowa Code Section 207.14(8).

The Director finds that Iowa has cited the correct Iowa Code counterparts to the cited SMCRA Sections, and that the proposal is thus no less effective than 30 CFR 845.15(b)(2) in meeting SMCRA's requirements, and is approving the proposal. The Director further notes that this approval fulfills the required amendment codified at 30 CFR 915.16(b)(3) that was imposed on February 8, 1994 (59 FR 5709, 5723). Therefore the Director is removing this requirement.

9. IAC 27–40.75(2). Definition of ''Violation, Failure, or Refusal''

Iowa proposes to replace the definition of ''violation, failure, or refusal'' in the Federal regulations at 30 CFR 846.5 with a new definition that is substantively the same as the Federal definition, with one exception. The second part of the Federal definition includes failure or refusal to comply with certain orders, but excludes orders issued under SMCRA Sections 518(b) or 703. Iowa's corresponding statutory provisions (Iowa Code sections 207.15 and 207.28, respectively) do not specifically refer to the issuance of ''orders.'' Therefore in this proposed definition, Iowa has replaced citations to its statute with citations to its implementing rules (IAC 27–40.74(7) and 27–40.7(207)), since these implementing rules do specifically refer to orders issued by Iowa. This replacement of statutory citations with regulatory citations renders Iowa's proposed definition substantively the same as the Federal definition. Therefore the Director is approving the proposal.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

In response to OSM's invitation of public comments, the State Historical Society of Iowa responded on June 17, 1994, with a suggestion that Iowa's proposed definition of ''significant departure'' (at proposed IAC 27–40.32(2)) be revised to include any change in the permit area, mining method, or reclamation procedure which would, in the opinion of the regulatory authority, significantly change the effect that mining operations would have on cultural resources (Administrative Record No. IA–404). OSM forwarded the suggestion to Iowa in the issue letter dated October 3, 1994 (Administrative Record No. IA–407).

Iowa included this suggestion in its revised amendment dated November 8, 1994 (Administrative Record No. IA–408). The Director is approving this proposed definition, as discussed in Finding No. 5.b above.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Iowa program. No comments were received.

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Iowa proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IA–400). EPA did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. IA–400). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves Iowa's proposed amendment as submitted on April 13, 1994, and as revised on November 8, 1994.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 915.16 that, within 60 days of the publication of this final rule, Iowa must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Iowa's established administrative or legislative procedures.

The Director approves the rules as proposed by Iowa with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 915, codifying decisions concerning the Iowa program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 915—IOWA

11. The authority citation for Part 915 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 915.15 is amended by revising the heading and by adding paragraph (k) to read as follows:

§ 915.15 Approval of amendments to the Iowa regulatory program.

* * * * *

(k) Revisions to and/or addition of the following rules, as submitted to OSM on April 13, 1994, and as revised on November 8, 1994, are approved effective April 6, 1995:

IAC 27–40.3(207), general provisions of regulatory program; 27–40.4(9), definition of ''previously mined area;'' 27–40.31(14), requirements for permits and permit processing; 27–40.32(207), revisions, amendment, renewal, transfer, sale, assignment of permit; 27–40.51(7), bond release applications; 27–40.63(20), backfilling and grading, time and distance requirements; 27–40.74(3), alternate enforcement; and 27–40.75(2), definition of ''violation, failure, or refusal.''

3. Section 915.16 is revised to read as follows:

§ 915.16 Requried program amendments.

Pursuant to 30 CFR 732.17(f)(1), Iowa is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Iowa's established administrative or legislative procedures.

[FR Doc. 95–8465 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 950118018–5083–02; I.D. 111494E]

RIN 0648–XX02

Atlantic Mackerel, Squid, and Butterfish Fisheries; Final 1995 Specifications

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

ACTION: Final specifications for the 1995 Atlantic mackerel, squid, and butterfish fisheries.

SUMMARY: NMFS issues the final specifications for the 1995 fishing year for Atlantic mackerel, squid, and butterfish. This action complies with the regulations governing this fishery, which require NMFS to publish annual specifications.

EFFECTIVE DATE: April 5, 1995.

ADDRESSES: Copies of the Environmental Assessment are available from the Northeast Regional Office, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

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

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council appear at 50 CFR part 655. These regulations require NMFS to publish a document specifying the initial annual amounts of the initial optimum yield (IOY), as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Procedures for determining the initial annual amounts are found in § 655.22.

These specifications are unchanged from the proposed specifications that were published in the **Federal Register** on January 26, 1995 (60 FR 5162). No public comments were received concerning the proposed specifications. After consideration of all relevant data, NMFS has made a final determination of the initial amounts for each species. The following table contains the final 1995 initial specifications for Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish.

FINAL INITIAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1995 (MT)

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
Max OY [1]	44,000	30,000	[2] N/A	16,000
ABC [3]	36,000	30,000	850,000	16,000
IOY	36,000	30,000	[4] 100,000	10,000
DAH	36,000	30,000	[5] 100,000	10,000
DAP	36,000	30,000	50,000	10,000
JVP	0	0	35,000	0
TALFF	0	0	0	0

[1] Max OY as stated in the FMP.
[2] Not applicable; see the FMP.
[3] IOY can rise to this amount.
[4] This specification may be increased to 134,000 mt, the long-term potential catch for the Atlantic mackerel fishery.
[5] Contains 15,000 mt projected recreational catch based on the formula contained in the regulations (50 CFR part 655).

NMFS also announces the four special conditions put forth for public comment that would affect any foreign joint venture fishery for Atlantic mackerel, should one occur in 1995: (1) River herring bycatch south of 37°30′ N. lat. may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Director, Northeast Region, NMFS (Regional Director) should do everything within his power to reduce impacts on marine mammals in prosecuting the Atlantic mackerel fisheries; (3) IOY may be increased during the year, but the total should not exceed 134,000 mt; and (4) applications from any given nation for a joint venture for 1995 will not be decided on until the Regional Director determines, based on an evaluation of performances, that the nation's purchase obligations for previous years have been fulfilled. There were no comments received regarding these conditions.

Classification

This action is authorized by 50 CFR part 655.

These final specifications are exempt from review under E.O. 12866.

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

Dated: March 30, 1995.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–8499 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–22–W

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 033195A]

Groundfish of the Gulf of Alaska; Prohibit Retention of Pacific Cod

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by vessels catching Pacific cod in the Western Regulatory Area of the Gulf of Alaska (GOA) for processing by the inshore component. NMFS is requiring that catches of Pacific cod by these vessels in the Western Regulatory Area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of Pacific cod specified for the inshore component in this area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 31, 1995, until 12 midnight, A.l.t., December 31, 1995.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska 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 672.

In accordance with § 672.20(c)(1)(ii), the allocation of Pacific cod total allowable catch (TAC) for the inshore component in the Western Regulatory Area, GOA, was established by the final 1995 specifications of groundfish (60 FR 8470, February 14, 1995), as 18,090 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the allocation of Pacific cod TAC specified for the inshore component in the Western Regulatory Area, GOA, has been reached. Therefore, NMFS is requiring that further catches of Pacific cod by operators of vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area in the GOA, be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: March 31, 1995.

David S. Crestin,

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

[FR Doc. 95–8390 Filed 3–31–95; 4:09 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 66
Thursday, April 6, 1995

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 981

[Docket Nos. AO–214–A7; FV93–981–1]

Almonds Grown in California; Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order No. 981

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and opportunity to file exceptions.

SUMMARY: This recommended decision invites written exceptions on proposed amendments to the marketing agreement and order for almonds grown in the State of California. The proposed amendments would: Amend five existing definitions in the order; revise board representation, nomination procedures, terms of office, quorum and qualification procedures, voting and tenure requirements; modify creditable advertising provisions; revise volume control procedures; require handlers to maintain records in the State of California; authorize interest or late payment charges on assessments paid late; provide for periodic continuance referenda; authorize exemptions for organic almonds from certain program requirements; and make necessary conforming changes. These proposed amendments are designed to improve the administration, operation and functioning of the California almond marketing order program.

DATES: Written exceptions must be filed by May 8, 1995.

ADDRESSES: Written exceptions should be filed with the Hearing Clerk, U.S. Department of Agriculture, room 1079–S, Washington, DC 20250–9200, Facsimile number (202) 720–9776. Four copies of all written exceptions should be submitted and they should reference the docket numbers and the date and page number of this issue of the **Federal Register**. Exceptions will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, Washington, D.C. 20250–0200; telephone: (202) 720–1509, or FAX (202) 720–5698; or Martin Engeler, Assistant Officer-In -Charge, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102–B, Fresno, California 93721; (209) 487–5901 or FAX (209) 487–5906.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on August 3, 1993, and published in the August 17, 1993, issue of the **Federal Register** (58 FR 43565).

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.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Agreement and Order No. 981, regulating the handling of almonds grown in California, and the opportunity to file written exceptions thereto. Copies of this decision can be obtained from Kathleen M. Finn or Martin Engeler whose addresses are listed above.

This action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendment of Marketing Agreement and Order No. 981 is based on the record of a public hearing held in Modesto, California, on November 3, 4 and 5, 1993. Notice of this hearing was published in the **Federal Register** on August 17, 1993. The notice of hearing contained several proposals submitted by the Almond Board of California (Board), which locally administers the order, and other interested parties.

The Board's proposed amendments would: (1) Increase its membership by two positions and change Board nomination, selection, and operation procedures; (2) change the term of office of its members from one to three years, and limit the tenure of Board members; (3) change the definitions of ''cooperative handler,'' ''to handle,'' ''settlement weight,'' ''crop year'' and ''trade demand''; (4) require handlers of California almonds to maintain program records in the State of California; (5) change its advertising assessment credit program to allow credit for certain advertising costs incurred by handlers not previously authorized; (6) require handlers to pay interest and/or late payment charges for past due assessments; (7) provide for continuance referenda every five years; (8) require handlers to submit grower lists; and (9) allow multi-year contracting.

Five persons submitted additional proposals related to continuance referenda, Board composition and nomination procedures, organic almonds, regulatory provisions, advertising and promotion, assessments, compliance audits, the definition of grower, and research and reserve operations.

At the hearing, Mr. Brian C. Leighton, on behalf of Cal-Almond, Inc., withdrew five of his proposals that were listed as proposal numbers 27, 30, 32, 33, and 38 in the Notice of Hearing. In addition, there was no evidence provided with respect to proposal numbers 42, 43, and 45 as listed in the Notice of Hearing. Therefore, these proposals are not included in this Recommended Decision.

The Notice of Hearing also included proposals by the Fruit and Vegetable Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, to make such changes as are necessary to the order, if any or all of the above amendments are adopted, so that all of its provisions conform with the proposed amendment. The Department also proposed that continuance referenda be conducted on a periodic basis consistent with the Department's policy guidelines.

At the conclusion of the hearing the Administrative Law Judge fixed February 28, 1994, as the final date for interested persons to file proposed

findings and conclusions or written arguments and briefs based on the evidence received at the hearing. The following persons submitted documents: Mr. Robert J. Crockett, Attorney for the Board; Ms. Suzanne Vaupel, Attorney representing several organic almond growers; and Mr. Steven W. Easter, Vice President of Blue Diamond Growers.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $5,000,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. The record indicates that handlers would not be unduly burdened by any additional regulatory requirements, including those pertaining to reporting and recordkeeping, that might result from this proceeding.

During the 1993–94 crop year, approximately 115 handlers were regulated under Marketing Order No. 981. In addition, there were about 7,000 producers of almonds in the production area. The Act requires the application of uniform rules on regulated handlers. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

The proposed amendments to the marketing agreement and order include changes to five definitions in the marketing order. These definitions are cooperative handler, to handle, settlement weight, crop year, and trade demand. The changes that are proposed to the definitions are intended to make them consistent with current industry practices. The proposed changes to the definitions are designed to enhance the administration and functioning of the marketing order to the benefit of the industry.

The proposed amendment to revise Board representation would increase the Board's size by allowing two additional grower members to serve on the Board. This would increase grower representation on the Board from five to seven and allow more grower input into Board decisions. The quorum size would also be increased to correspond with the increase in Board size. The change to the nomination procedures would require Board nominees to be nominated by January 20 rather than April 20 as currently provided. This would ensure that the new Board is seated prior to meetings where important decisions are made for the following crop year. These proposed amendments are designed to improve grower representation on the Board and allow the Board to function more efficiently.

The proposed amendment to change the Board members' term of office from one-year to three-year staggered terms would allow more continuity on the Board. This would allow the Board to focus more on long-term strategic goals and develop long-term approaches to problems in the industry.

The proposed amendment to require those persons nominated to the Board to qualify prior to their selection to the Board is an administrative change. This change would allow the selection process to take place in a more timely manner. The proposed amendment to add tenure requirements for Board members would allow more persons the opportunity to serve as members on the Board. It would provide opportunity for new ideas and approaches to issues that the Board addresses each year.

The proposed amendment to the creditable advertising provisions would provide for expansion of the promotional activities for which handlers may receive credit-back from their assessments. This would allow the Board to increase program flexibility for participating handlers.

The proposed amendment to allow the settlement weight for unshelled almonds to be determined on the basis of representative samples would be more consistent with current industry practices. There would be no increase in burden on handlers expected from this proposed amendment.

The proposed amendment to require handlers to maintain records in the State of California would improve the Board's administration of the program. It would also allow the Board to have the records available to them for compliance purposes. It is not expected that any additional costs would be incurred by handlers to comply with this amendment.

The proposed amendment to add interest or late payment charges on assessments paid late would encourage handlers to pay their assessments on time. Assessments not paid promptly add an undue burden on the Board because the Board has ongoing projects and programs funded by assessments that are functioning throughout the year. The addition of such a penalty is consistent with standard business practices.

The proposed amendment to provide for periodic continuance referenda would allow growers the opportunity to vote on whether to continue the operation of the almond marketing order.

The proposed amendment to allow handlers to sell their reserve almonds and the accompanying reserve obligation to other handlers would help facilitate the operation of the reserve program by providing handlers more flexibility.

The proposed amendment to exempt organic almonds from certain program requirements would provide the organic segment of the industry more flexibility in marketing and selling their product. The proposed amendment would authorize organic almond handlers to be exempt from reserve requirements and advertising assessments. Organic growers and handlers demonstrated at the hearing that certain current marketing order provisions do not take into account marketing differences between certified organic almonds and conventional almonds.

All of these changes are designed to enhance the administration and functioning of the marketing agreement and order to the benefit of the industry. Accordingly, the Administrator of AMS has determined that the proposed revisions of the order would not have a significant economic impact on handlers and growers.

The amendments proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have 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 the amendments.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection

with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the reporting and recordkeeping provisions that are included in the proposed amendments would be submitted to the Office of Management and Budget (OMB). The provisions would not be effective until receiving OMB approval.

Material Issues

The material issues of record addressed in this decision are as follows:

(1) Whether to revise the existing definition for ''cooperative handler'';

(2) Whether to revise the existing definition for ''to handle'';

(3) Whether to revise the existing definition for ''settlement weight'';

(4) Whether to revise the existing definition for ''crop year'' and to change the date that handler carryover and reserve inventory is reported to the Secretary to be used in fixing the salable and reserve percentages;

(5) Whether to revise the existing definition for ''trade demand'';

(6) Whether to increase membership representation on the Board, revise quorum requirements, allow voting by facsimile machines, only require the participation of 10 members when voting by facsimile machines, telegram or mail, increase the number of votes needed for Board actions, and increase the number of affirmative votes needed to make recommendations on reserve policies;

(7) Whether to change the date for submitting nominees for Board membership to the Secretary;

(8) Whether to revise the terms of office and add tenure requirements for members and alternates;

(9) Whether to require a written acceptance with the background statement from nominees;

(10) Whether to expand activities for which handlers may receive credit under the credit-back advertising and promotion provisions;

(11) Whether to revise the provisions regarding the determination and redetermination of kernelweight for unshelled almonds and whether to eliminate the shelling ratios for unshelled almonds;

(12) Whether to change the deadline date for disposition of reserve almonds;

(13) Whether to delete the authority for the creditable advertising provisions and to modify the generic advertising and promotion program;

(14) Whether to authorize the Board, with the approval of the Secretary, to reapportion grower and/or handler member representation on the Board based on the proportionate amounts of almonds handled by different segments of the industry;

(15) Whether additional eligibility requirements should be added for grower members on the Board;

(16) Whether to require handlers to maintain records in the State of California;

(17) Whether to provide handlers advance notice before an audit or inspection is performed;

(18) Whether to require handlers to submit to the Board a complete list of growers who have delivered almonds to that handler during that crop year;

(19) Whether to authorize the imposition of interest and/or late payment charges for assessments that are paid late;

(20) Whether to authorize payment of interest in the event a suit or administrative petition on payment of assessments is successful;

(21) Whether to amend the definition of almonds to exempt certified organic almonds entirely from the marketing order;

(22) Whether to exempt certified organic almonds from advertising and promotion assessments;

(23) Whether to require that a minimum of 25 percent of funds collected for production research projects be spent on research and development of production methods which reduce or eliminate the use of synthetic chemicals in the production and handling of almonds;

(24) Whether to require that almonds grown and sold as ''certified organic almonds'' be exempt from the reserve provisions;

(25) Whether to authorize the Board to enter into contracts for periods up to five years for services, goods or other reasonable expenses;

(26) Whether to require that continuance referenda be conducted on a periodic basis;

(27) Whether to modify the reserve provisions of the order by eliminating the authority requiring reserve almonds to be sold in secondary or market development outlets and by authorizing handlers to sell reserve almonds and the reserve obligation to other handlers;

(28) Whether to require that the first 250,000 pounds of almonds handled by a handler be exempt from reserve provisions; and

(29) Whether to require incoming inspections be conducted no later than the last day of February during the then current crop year.

Findings and Conclusions

The findings and conclusions on the material issues, all of which are based on evidence presented at the hearing and the record thereof, are:

Material Issue Number 1

The term ''cooperative handler'' should be amended by referencing the California Food and Agricultural Code (California Code) in section 981.14 so that cooperative handler would be more clearly defined in the marketing order.

Currently, section 981.14 defines cooperative handler as any handler which is a cooperative marketing association of growers regardless of where or under what laws it may be organized. This definition is used for Board membership purposes only. Proponents testified that this definition needs to be amended to eliminate any misinterpretations or misunderstandings by the industry. Therefore, the proponents stated that the definition should reference the California Code which specifically defines a cooperative. Record evidence supported that the term ''cooperative handler'' should be defined in § 981.14 to mean any handler as defined in section 981.13 (Handler), and which qualifies for treatment as a non-profit cooperative association as defined in section 54001, et seq. of the California Code. Under this new definition, organizations would be unable to identify themselves as cooperatives under the almond marketing order unless they meet the specific criteria contained in the California Code.

At the hearing, there was concern about future modifications to the California Code which may be unacceptable to the almond industry. Record testimony indicated that it was more important to develop a concise definition that would help to alleviate current problems the industry is experiencing with misunderstandings under the current cooperative definition than to be concerned that the State may develop an unsatisfactory definition of cooperative at some future date. If the definition of cooperative was amended by the State and the amendment rendered the definition unsatisfactory to the Board, it would become necessary to

amend the marketing order definition again. In the event the State definition changed but remained satisfactory for marketing order purposes, a change in the State's legal citation would still require a change in the order. Therefore, a provision is recommended to be added to the amendatory language to allow the Board, with the approval of the Secretary, to modify the definition through informal rulemaking if the cooperative handler definition is changed by California. This would allow the Board to change the definition without going through the formal rulemaking process. This proposed amendment is therefore recommended with the above modifications.

Material Issue Number 2

The term ''to handle'' in § 981.16 should be amended to mean to commercially use almonds of own production or to sell, consign, transport or ship or in any other way to put almonds grown in the area of production into any channel of trade for human consumption worldwide.

Currently, § 981.16 defines ''to handle'' to mean ''to use almonds commercially of own production or to sell, consign, transport, ship (except as a common carrier of almonds owned by another person) or in any other way to put into channels of trade, either within the area of production or from such area to points outside thereof, or to receive as the first receiver thereof at any point of entry in the United States and Puerto Rico, almonds which have been exported therefrom and are submitted for reentry or are reentered free of duty * * *''.

At the hearing, proponents testified that the current definition should be amended to conform to the present state of the industry and to ensure that some entities not normally considered handlers who may sell almonds to channels of human consumption are subject to regulation.

This proposed amendment intends to clarify the current definition to insure that entities whose primary function is to remove hulls and shells from almonds (hullers and shellers) who retain some of the growers' almonds and sell them into human consumption channels are subject to marketing order regulations for those almonds sold to human consumption channels. These hullers and shellers are currently performing a handling function by taking title to the almonds and are covered under the current definition. However, the proponents believed that further clarification to the definition is needed in order to insure that hullers and shellers that perform handling functions are regulated. Proponents testified that modifying the definition would ensure that high quality almonds are shipped into human consumption outlets. Proponents testified that because the new definition would be clear, certain hullers and shellers would be aware that they are subject to regulation under the marketing order. Because of this, the number of almond handlers regulated under the marketing order may be increased by this amendment, but the increase is not expected to be significant. This proposal is not intended to bring all hullers-shellers under the authority of the marketing order, but only those that perform handling functions by placing almonds into human consumption outlets.

The proponents also intended that growers not be considered handlers unless they prepare the almonds into a form ready for human consumption. In cases where growers deliver field run almonds to another entity, the Board wants to clarify that the entities that receive such almonds from growers and sell those almonds into human consumption channels are considered handlers under the marketing order. This proposed amendment is recommended.

Material Issue Number 3

The definition of the term ''settlement weight'' should be amended in § 981.18 to allow adjustments in settlement weight for inedible kernels.

The current section defines settlement weight as the actual gross weight of any lot of almonds received for the handler's own account, less adjustments for weight of containers, for excess moisture, and for trash or other foreign material of any kind. There is no adjustment specified for inedible kernels.

Handlers report to the Board the almonds they receive from growers in terms of settlement weight. If settlement is made on shelled almonds, the settlement weight equals the kernelweight. If settlement is made on unshelled almonds, the settlement weight is converted to a kernelweight basis in accordance with § 981.60 of the order. Volume regulations and other order obligations are imposed on handlers on the basis of kernelweight. Thus, the settlement weight of almonds received impacts a handler's reserve obligations. Such obligations do not accrue on those items deducted from the actual gross weight of the almonds received (e.g., trash and other foreign material).

Evidence at the hearing indicated that almond production has dramatically increased since the inception of the marketing order. Therefore, the number of inedible kernels has also increased and the disposition of inedible kernels has become a major issue for the industry. Inedible kernel percentages are not currently deducted from the gross weight in determining settlement weight. This amendment is intended to allow handlers to deduct inedible kernels in settlement weight calculations and thereby, more accurately reflect the marketable quantity of almonds purchased by handlers.

This proposed amendment is recommended.

Material Issue Number 4

In § 981.19, the term ''crop year'' should be amended from ''July 1 through June 30'' to ''August 1 through July 31'' in order to more accurately reflect industry harvesting and marketing activities. This change should also be made for handler recordkeeping purposes.

If this proposal becomes effective, the proponents suggest having one 13-month fiscal year in the first year after implementation of the amendment to provide for a smooth transition of the modification. Almonds are normally harvested and received by handlers between August and November. Record evidence indicated that there was concern that, in the past, almonds were occasionally harvested as early as July. The Board representatives were questioned as to what effects early crop almonds would have on the change in fiscal year. For example, if a reserve was anticipated for the following crop year, a handler may wish to have July almonds apply to the previous crop year to avoid subjecting those almonds to reserve requirements. The same situation could apply if the assessment rate was raised. A handler could have July almonds apply to the previous crop year to avoid paying a higher assessment.

A statistical table submitted by the Department showed that for the past 12 years, no almond receipts were listed in July, even in a year where almonds were harvested in July. A Board representative stated that, in those situations, the almonds were held in a handler's plant and not inspected until August, so therefore they were not reported as received until August. This representative stated that, in the rare instance that almonds would be harvested in July, the almonds should be considered new crop almonds and held until August. However, it also was stated that under the proposed order amendment, July almonds would be

considered as applying to the current crop year and handlers could use that to their advantage by processing almonds in July and not subjecting them to a reserve if a reserve was recommended for the next crop year. It was stated that there was nothing in the proposal to prevent that situation from occurring. One independent handler's representative stated that his client would be the first to report almonds in July if it meant being able to avoid a reserve. Record evidence indicated that the amendatory language proposed by the Board should be modified to correct the potential for problems relating to this situation. Although the record indicated no almonds have been reported in July for several years, the amendatory language has been modified to correct this potential problem by adding a sentence to the definition which states that any new crop year almonds harvested prior to August 1 would be applied to the next crop year for purposes of assessments, quality control provisions and volume regulations. This proposed amendment is recommended.

Conforming changes are also necessary to the regulations to conform with the change in crop year. There were three proposals relating to conforming changes in reference to the crop year. One was withdrawn (Proposal No. 22) because it proposed changing § 981.441. Since the publication of these proposals in the **Federal Register**, this section has been completely modified and no longer references any dates relating to the crop year. It was proposed to amend § 981.467 by making a date change to conform with the change in the crop year (Proposal No. 23). It was proposed to amend § 981.472 by modifying the reporting periods for reports of almonds received to be consistent with the new crop year calendar (Proposal No. 24). This proposal was modified at the hearing to correct an error which appeared when published. Specifically, at the hearing, the proposal was clarified to amend paragraph (a) of § 981.472 by removing the dates ''July 1 to August 31'' and adding in their place ''August 1 to August 31'' and removing the dates ''April 1 to June 30'' and adding in their place the dates ''April 1 to July 31''.

A conforming change is also necessary to section 981.73 of the marketing order regarding the filing of periodic reports. Testimony confirmed the intent would be to change the July 15 reporting date to August 15 and the June 30th reporting date to July 31. In addition, § 981.49(b) should be amended by changing the date through which estimates of handler carryover and reserve inventory must be calculated from July 1 to July 31. The above modifications have been made by the Department.

Material Issue Number 5

The definition of ''trade demand'' should be amended in § 981.21 to remove the option of not including exports as part of the trade demand.

Currently, the term ''trade demand'' means the quantity of almonds which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution in the United States, Puerto Rico, and the Canal Zone, provided that in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds. Testimony indicated that, because of the growth of export markets, they should be recognized as an integral part of the trade demand for California almonds and that this proposal would more accurately reflect the true worldwide nature of today's almond industry. Statistics presented at the hearing confirmed the growth of the export market. Record evidence also indicated that conforming changes would be necessary to §§ 981.47 and 981.66 to correspond with this proposal by deleting phrases relating to trade demand including either domestic or domestic plus export. Paragraph (f) of § 981.49 should be deleted as it relates to the percentage of reserve almonds that may be exported. By making export almonds part of trade demand, the Board's ability to establish an export percentage is not necessary. This proposed amendment is recommended.

Material Issue Number 6

Sections 981.30 and 981.31 should be amended to increase Board representation from 10 to 12 members to strengthen the influence of growers on the Board. Section 981.30 establishes the number of representatives on the Board and § 981.31 sets forth the representation of the members.

Current Board representation consists of two members representing cooperative handlers, two members representing handlers other than cooperative handlers (independent handlers), two members representing growers who market their almonds through cooperative handlers, two members representing growers who market their almonds through independent handlers, one member representing handlers (cooperative or independent handlers) who through March 31 of the then current crop year handled more than 50 percent of the crop, and one member representing growers whose almonds were handled through the handler group that handled more than 50 percent of the crop.

Record evidence indicated that adding one additional grower representing cooperative handlers and one additional grower representing independent handlers would increase grower representation on the Board. This would allow additional grower input in Board decisions.

The date for computing the percentage of the crop handled by the entities who handled more than 50 percent of the crop is also being amended from March 31 to December 31 of the then current crop year to allow more adequate time for the election process. The election process for independent member and alternate member positions on the Board requires that candidates submit their names for inclusion on a ballot to be mailed prior to a specified date (currently April 20). Handlers then vote for handler members and alternates. Each handler vote is weighted by the quantity of almonds handled in a prior period. Growers vote for grower members, with each vote equal in weight.

Record testimony and statistical evidence indicated that at least 95 percent of the crop is harvested by December 31 and modifying the date in this section would have little or no impact on the percentages computed in determining which group handled more than 50 percent of the crop for that year.

Section 981.40 should be amended by revising paragraphs (b) and (c) and amending paragraph (e) by removing the word ''seven'' and adding in its place the word ''eight.'' This proposal would change the quorum size and the number of votes required to recommend certain activities. Specifically, the proposal intends that all Board decisions shall be as follows: If eight or nine members are present, six affirmative votes will be needed to pass an action; if 10 members are present, seven affirmative votes will be needed to pass an action; if 11 or 12 members are present, eight affirmative votes will be needed to pass an action.

Currently, § 981.40 provides for a quorum size of six members and a majority vote of the members present to pass Board recommendations. In addition, § 981.40(e) provides that seven affirmative votes are required for Board recommendations with respect to projects pursuant to § 981.41 involving production research, marketing research and development projects, and marketing promotion including paid

advertising and crediting the pro rata expense assessment obligation of handlers with such portion of their direct expenditures for marketing promotion including paid advertising.

Witnesses testified at the hearing that the change in the quorum size and number of votes needed to pass Board recommendations including those under § 981.41 would be needed if the Board is increased from 10 to 12 members. With the increase in membership from 10 to 12 members, the Board believes that more stringent quorum size requirements would ensure that the almond industry is well represented at Board meetings.

An opponent testified that the two-thirds majority component is undemocratic because it allows the minority to effectively have veto power over a majority of elected representatives. Another opponent testified that because the cooperative segment will always have a minimum of five votes, it has the ability to block Board actions. This witness stated that although the independent segment has the same ability, history has shown that it is rare for the independent segment to vote in unison. This witness testified that since 1950, the cooperative segment voted together on every occasion, except two.

The proponent testified that a two-thirds requirement would help increase industry cohesion and harmony on important issues that come before the Board. The proponent also believes that the almond industry would become stronger as a result of this change as all industry factions would work together to find common ground. Witnesses testified that industry unity is a major factor when the Secretary reviews recommendations submitted to the Department for action or approval.

Although the independent and cooperative segments have the ability to block Board actions by voting in unison, neither could alone carry enough votes to pass a recommended action under this proposal's voting requirements. With the two-thirds majority, voting in unison by one segment of the industry could keep an action from passing. However, under a simple majority, one segment of the industry would be in a position to actually pass a Board action with its seven votes. This could allow Board actions and recommendations to be approved with only the support of one industry segment.

Record evidence supports the quorum size being increased to a two-thirds majority. Although there was testimony in opposition to increasing the number of votes required to pass Board recommendations from a simple majority to an approximate two-thirds majority, the testimony in favor of this proposal by the Board, the Processors and Hullers Association and the Almond Growers Council strongly supports this proposal. As stated previously, this proposed amendment will allow for more diverse support for Board activities and is, therefore, recommended as proposed.

Record evidence indicated that the two-thirds voting requirement has been used by the Board's public relations and advertising committee and has been successful. The general belief of the committee members is that the requirement has been very beneficial in helping them reach consensus on major issues.

Section 981.49 should also be amended to increase the required number of votes when recommending saleable and reserve percentages to the Secretary.

Record evidence indicates that the number of affirmative votes required to recommend saleable and reserve percentages should be increased from six to eight. This change would require more stringent voting requirements for reserve recommendations than those for other Board actions in some cases. Such requirements would ensure that broad industry support exists for such recommendations. This proposal was unanimously supported by the Board and was supported by the Almond Growers Council. No opposition testimony was presented at the hearing.

Additionally, this proposal addresses the issue of voting by methods other than at assembled meetings. Currently, § 981.40 states that votes conducted by mail or telegram must be unanimous to pass an action. Thus, even one negative vote would cause an action to fail. The proposal would add facsimile machines as a method of voting, and would require 10 affirmative votes out of a possible 12 votes on an issue when voting by facsimile machine, telegram or mail for an issue to pass. Record evidence indicated that, in the past, important Board business was sometimes delayed by a member failing to respond by telegram or mail for an issue to pass. The recommended change would alleviate this problem and would increase the Board's options in voting outside of assembled meetings.

These proposed amendments are recommended.

Material Issue Number 7

Section 981.32 should be amended to change the nomination deadline for Board nominees from April 20 to January 20 and to change the deadline for presenting the nominees for selection with the Secretary from May 20 to February 20. Section 981.33 should also be amended to change the beginning of the term of office from June 20 to March 1. These proposals are intended to ensure that the new Board members and alternates are seated prior to meetings where important decisions are made for the following crop year. These issues could relate to setting assessment rates, adopting budgets, approving production research or advertising programs or setting a reserve. Testimony showed that this proposal would allow new Board members and alternates to be seated by March 1, which would help alleviate this problem as most of these decisions are made after March 1 but before June 20.

The above proposed amendments are recommended.

Material Issue Number 8

Section 981.33 should be amended to change the Board members' terms of office from one year to three year staggered terms to provide continuity of operation. This section should also be amended to limit these terms to six consecutive years. Currently, Board members serve for a term of one year with no limitations on the number of terms members can serve. The intent of one-year terms was to have a Board that reflected the current interests and wishes of the almond industry.

Because of the many complex issues facing the almond industry today, testimony indicated that more emphasis should be placed on long-term strategic goals. Three year terms for some Board members would allow the Board the opportunity to work together on industry issues and develop long-term approaches. This would also provide continuity on the Board from one year to the next year. The two new grower positions proposed to be established under this formal rulemaking process under § 981.31(c) would remain at one-year terms. The record evidence indicated that these two positions are swing positions, which means that they would be subject to change each year depending on whether the independent handlers or the cooperative handled the majority of the tonnage.

With this proposal, it is intended that each year the terms of office of three of the members would expire, except every third year when the term of office for four of those members would expire. To accomplish this, initially, three members would serve for a term of one year, three members would serve for a term of two years and four members would serve for a term of three years. At the time of nomination the Board shall

make this designation by lot. To the extent practicable, the designations should be equitable between grower and handler positions and between cooperative and independent positions. The two new grower positions would always be for a period of one year. Nominees for each respective member and alternate position would be chosen by ballot delivered to the Board.

The modification to section 981.32 also stated that ''each year the terms of office of one third of the Board shall expire, except in 1994, when all terms of office shall expire, except where otherwise provided.'' Record testimony revealed that it was not mathematically feasible for one-third of the Board terms to expire since 10 members serve 3 year terms and 2 members serve 1 year terms. A brief filed by Mr. Robert J. Crockett, Attorney for the Board, provided a modification to the amendatory language correcting the mathematical error as stated above as well as the reference to 1994.

Proponents also testified that section 981.33 should be amended to require a term limitation of nine years for Board members. Record evidence indicated that alternate members' terms of office would not be subject to the nine year term limitation.

It is the Department's view that a limit on tenure for Board members would improve representation on the Board by allowing for different and more contemporary ideas, and that such a limit would be beneficial to the Board's operations. The Department's policy is that a Board member's consecutive service be limited to a total of six years.

At the hearing, proponents for the nine year tenure limitation testified that nine years was the Board's proposal, however, the testimony indicated that the proponents would not be opposed to a six year tenure requirement. Further, proponents testified that the Board would not be opposed to the Secretary extending the term of office limitation for a member if another qualified candidate was unable to be found willing to serve.

Thus, in conformance with the above policy, the Board's proposal for a tenure limitation of nine years for Board members should be modified to six years. Therefore, it is proposed that the order be amended to limit the tenure of members to six years. Tenure would not apply to alternates. The proposal intended that a person who has served less than the term amount may not be nominated to a new term if the total consecutive years on the Board at the end of that new term would exceed the tenure. For example, a member could serve for a two-year term and may then be elected to serve in a position that has a three-year term. That member could not then be nominated to another three-year term because the length of service (eight years) would exceed the term limitation of six years.

Any member would become ineligible to serve on the Board after having served six consecutive years. Such individuals could again become eligible to serve on the Board by not serving on the Board for one full year as a member. Since there is no term limitation on alternate members, a member having served for six consecutive years could serve as a alternate member for a year and be eligible to serve again as a member. This limitation on tenure shall not include service on the Board prior to implementation of this amendment.

These proposed amendments are recommended.

Material Issue Number 9

Section 981.34 should be amended to require those persons nominated as Board members or alternate members to qualify prior to their selection by the Secretary by stating that they agree to serve in the capacity for which they were nominated.

Currently, any person selected to be a member or alternate member on the Board is required to qualify by filing a written acceptance with the Secretary after such selection is made.

At the hearing, proponents testified that the proposal is designed to remove the possibility that a person who is unwilling to serve is appointed by the Secretary to the Board. This would be accomplished simply by requiring that the prospective candidate provide background information and at the same time advise the Secretary that he or she agrees to serve in the position for which nominated. All this information would be provided to the Department prior to the selection process. This proposal would allow candidates to be selected to the Board in a more timely manner.

Section 981.34 should also be amended to clarify who is eligible to serve in Board positions. Proponents testified that the eligibility requirements for member and alternate members on the Board should be clarified to more specifically state that grower members and alternates must be growers or employees of growers and handler members and alternates must be handlers or employees of handlers. Section 981.34 currently states only provisions relative to these persons ceasing to be growers, handlers or employees of growers and handlers.

There was further discussion at the hearing that the intent of the proposal would be to change the word ''may'' to ''shall''. This would require that only such persons can serve in the grower and handler positions. This change has been made to amendatory language.

These proposed amendments are recommended.

Material Issue Number 10

Section 981.41(c) should be amended by revising the last sentence to allow the Board to expand the range of paid advertising activities for which handlers may receive credit-back from their advertising assessments. Section 981.41(c) should be amended by removing all text following the words ''15 percent'' in the last sentence and removing the colon after ''15 percent'' and adding in its place a period.

Currently, this provision lists activities that are not eligible for credit against a handler's assessment obligation. These activities include advertising production costs, preparation expenses, travel allowances, other expenses not directly connected with paid space or time, costs relating to pretesting of advertising, test marketing, directory advertising, point of sales materials, premiums and trade promotion allowances.

Hearing testimony indicated that by expanding the range of activities for which handlers may receive credit back from their assessments, the effectiveness of the industry's market development efforts will be improved. The proposal complements actions taken by the Board through informal rulemaking to replace a creditable advertising program with an expanded credit-back program. The proposal is intended to allow for a wider range of activities available for credit, thereby, providing handlers, especially those with no brand name, with additional opportunities.

Testimony against the proposal indicated that the new Credit-Back program compels handlers to advertise their products and directs handlers where and when to advertise almonds.

The marketing order does not compel handlers to advertise. The Credit-Back program is a voluntary program that allows handlers to receive credit-back from their advertising assessment if they engage in certain types of promotional activities. The proposed amendment would provide authority to expand upon an existing program by allowing the Board additional flexibility in recommending modifications to the regulations. Therefore, the proposed amendment is recommended.

Material Issue Number 11

Sections 981.60(b) and 981.61 should be amended and § 981.62 removed to allow the settlement weight for

unshelled almonds to be determined on the basis of representative samples of unshelled almonds reduced to shelled weight.

Currently, § 981.60(b) provides that unshelled almonds for which settlement is made on the basis of shelled weight shall be included in the total kernelweight for any handler at the settlement weight of such unshelled almonds multiplied by the shelling ratios in § 981.62. Settlement weight is the weight of almonds that handlers pay growers for upon delivery. Record evidence indicated that using a representative sample for determining kernelweight is a common industry practice. This practice would provide handlers with more accurate kernelweight figures. Current procedure under this section requires that shelling ratios be applied to the weight of unshelled almonds to arrive at a kernelweight. Shelling ratios are established by variety.

Proponents testified that representative samples would be taken by handlers on almonds received at the handler's premise under the supervision of the Department's inspection service or by the inspectors themselves. A sampling plan would be developed by the Board each year and would prescribe the size of the sample to be taken dependent on the actual weight of the load. For example, the plan would consist of sampling procedures for each handler to use that would coincide with the quality of the almond crop for that particular year. Evidence supported an appeal process if any handler disagreed with the actual representative sample taken. The appeal process would begin with the complaint being brought before the quality control committee (a subcommittee of the Board). If a handler did not receive satisfaction through the quality control committee, the handler could then take the complaint to the full Board.

Evidence also supported amending § 981.61 of the marketing order. Currently, § 981.61 provides that, three times during the crop year, the Board redetermine the kernelweight of almonds received for the purposes of computing each handler's reserve obligation. Section 981.61 further provides that the weights used in such computations for redetermining the kernelweight for unshelled almonds be computed by application of shelling ratios authorized pursuant to § 981.62.

Proponents testified that this is a companion proposal to the issue of determining settlement weight for unshelled almonds. Therefore, § 981.61 should be amended to allow the Board to redetermine the kernelweight of unshelled almonds by using a representative sample reduced to shelled weight. Record evidence indicated that this amendment would provide that the best and most common practices are being used for redetermining kernelweight.

Finally, the record evidence supported removing § 981.62 from the marketing order. Currently, § 981.62 contains a table of shelling ratios for each variety of almonds. These varietal shelling ratios are used for computing kernelweight for unshelled almonds. Record evidence indicated that these shelling ratios are no longer necessary to compute the kernelweight for unshelled almonds since the proponents have recommended using representative samples to compute such weight. Also, the shelling ratios are outdated because new varieties of almonds have been developed since the marketing order's promulgation.

Proponents testified that the amendments to §§ 981.60, 981.61 and 981.62 are intended to reflect the industry's current practices and provide a more accurate kernelweight figure.

These proposed amendments are recommended.

Material Issue Number 12

Sections 981.66(e) and 981.67 should be amended by changing the disposition date for reserve almonds from September 1 to December 31. Currently, these sections require reserve almonds to be disposed of by handlers by September 1 of the following crop year. If any reserve is remaining after that date, the Board is required to dispose of the reserve through the most readily available reserve outlets. The order also provides that the September 1 date may be extended by the Board to a later date, if necessary.

Record evidence indicated that a December 31 date is a much more practicable deadline date than the current date. When the order was first promulgated, the almond industry was much smaller and the majority of the crop was sold in the fall. At that time, there was little need for storage and storage techniques did not allow the product to be stored for a long period of time.

Proponents testified that the almond crop today is much larger and storage capabilities allow handlers to store almonds for a year or more. The last two times that an almond reserve was in effect, the Board recommended that the September 1 disposition date be extended to December 31. The record evidence showed that a December 31 disposition date is a more realistic deadline for the industry based on current industry practices. This proposal would also provide that the December 31 disposition date may be extended by the Board to a later date, if necessary, with the Department's approval.

The proposed amendment is recommended.

Material Issue Number 13

Sections 981.40 and 981.41 should not be amended to delete the authority for the Credit-Back advertising program under the almond marketing order and to modify the generic program. In addition, § 981.81 should not be amended to conform with the proposal to amend §§ 981.40 and 981.41. A proponent of this proposed amendment testified that the program is unconstitutional and a waste of the growers' money. The program also requires several office hours and many hours to complete forms to participate in the program. Further, the proponent testified that by the time handlers get done wasting their money on the current regulations, they have no funds left to advertise almonds in the way they would prefer.

The proponent testified that other areas of the Credit-Back program are burdensome and wasteful to the handlers. One area is that handlers only receive credit-back for that portion of the product weight represented by almonds or the handler's actual payment, whichever is less. The proponent testified that this area of the Credit-Back program is unfair because handlers should be paid back for all their advertising since they moved a lot of almonds into the marketplace. Further, the almond is used as an ingredient product and many handlers sell almonds into that market. The proponent testified that the Board should not care where the almonds are sold (e.g., cereals, candy, ice cream, etc.). The Board should only be concerned about moving California almonds into the marketplace.

Another area of concern expressed by the proponent was that the government can dictate to handlers where to advertise and where not to advertise, where they can get credit and where they cannot get credit.

The proponent testified that it is not opposed to the generic advertising program. However, the witness proposed that the Board should not be allowed to engage in promotion directed solely at snack almonds nor should the primary purpose of any Board advertising or promotion be directed for the consumption or sale of snack almonds. The proponent testified that 95 to 98 percent of the entire almond

production is for ingredient uses and not for snack almonds. Therefore, the witness testified that Board funds for the generic program should be spent on ingredient use.

Testimony from the opponents at the hearing indicated that actions have been taken and additional recommendations are being made to improve and expand the promotional activities for which handlers may receive credit-back from their assessments. The Credit-Back program is an example of an action which made the program more flexible. Another example is the proposal in this proceeding to further expand the range of activities for which handlers could get credit-back by amending Section 981.41(c), thus increasing program flexibility for those participating.

The opponents further testified that wide-spread industry support exists for the creditable advertising provisions and the authority should remain in the order. Opponents stated that this proposal eliminates handler choice and severely handicaps the industry in developing creative advertising and promotional activities. Regarding the portion of the proposal to prohibit promotion of snack almonds, opponents testified that problems would exist with attempting to define a specific type of almond as ''snack.'' Opponents stated this part of the proposal is arbitrary and capricious because the size of the package, method of sale, product form or shape or other criteria do not define almonds as snack. The witness testified that snacking is a form of consumption rather than a form of product. Opponents believe that all forms of almond sales can and do benefit the industry.

On August 17, 1993, the Department issued an interim final rule (58 FR 43500) which implemented a new Credit-Back advertising and promotion program. The new Credit-Back program substantially revised the creditable advertising program whereby handlers may receive credit against their assessment obligation for their individual promotional activities, in lieu of contributing entirely to a generic promotion program administered by the Board.

Although the new Credit-Back program allows credit for the percentage of almonds in other products, the program is designed to promote the sale of almonds and almonds in products, not the products that contain almonds. The Credit-Back program was recommended to the Department by the Board which is comprised of independent and cooperative members which represent the almond industry. The Credit-Back program is a voluntary program that allows handlers to receive credit-back from their advertising assessment if they engage in any of a broad range of promotional activities.

Research studies show that promotional programs conducted under the almond marketing order have been effective and are a good investment of industry funds. The Credit-Back program combined with the Board's generic program is a proven method of promoting almonds. The combined generic and Credit-Back program administered by the Board recognizes the positive aspects of both forms of promotion and has been proven to be successful and responsive to changing needs and desires of the industry over time.

We agree with the view that the marketing order promotion and advertising provisions should remain as flexible as possible and provide choices for the Board in determining how best to promote almonds. Removing authority for a Credit-Back program would reduce the options available to the industry for promoting its product. Maintaining that authority does not mandate use of such a program, it merely preserves an available tool.

It is determined that this variety of options can only benefit the industry. It is also determined that restricting the generic program by not allowing promotions for snack almonds also would unnecessarily limit choices for the Board and would not serve any useful purpose.

Accordingly, the record evidence does not support the amendment to eliminate the creditable advertising provisions or to modify the provisions as recommended in this proposal. Therefore, this proposed amendment is not recommended.

Material Issue Number 14

Section 981.32 should be amended to authorize the Board, with the approval of the Secretary, to reapportion grower and/or handler member representation on the Board based on the proportionate amounts of almonds handled by different segments of the industry.

A proposal was submitted and testimony received at the hearing which would require that cooperative representation on the Board not exceed the percentage of the industry tonnage handled by the cooperative in the immediately preceding crop year. However, no specific amendatory language was provided by the proponent.

At the hearing, the proponent testified that the industry's major cooperative marketing association, Blue Diamond Growers, Inc. (Blue Diamond), should not be guaranteed five of the 12 seats on the Board. The proponent testified that it is no longer democratic to provide Blue Diamond with five seats on the Board since the industry percentage of almonds handled by Blue Diamond has decreased. The proponent provided the following example of how the proposal would work: If Blue Diamond handled from 45 to 55 percent of the industry tonnage, Blue Diamond would have five seats; 35 to 44.9 percent, Blue Diamond would have four seats; 25 to 34.9 percent, Blue Diamond would have two to three seats. The proponent stated that this would prevent a single entity, such as Blue Diamond, from bloc voting on Board proposals. The proponent further stated that, currently, Blue Diamond has an unfair advantage by being allowed to always have five seats on the Board.

Opponents to this proposal testified that the Board's proposal to increase the number of members from 10 to 12 would provide additional grower representation on the Board. The proposal to increase the number of Board members represents the overwhelming sentiment of the industry. Opponents also testified that, in the past, the cooperative was able to have a majority of the Board's membership because of the amount of tonnage it handled. However, that is not the situation that exists today, as independent growers and handlers currently hold a majority of the Board's member positions.

Another opponent testified that, even with the decline in the percent of total crop handled by Blue Diamond, their membership exceeds 50 percent of the total number of California almond growers. Further, other opponents testified that the proposal is directed at only one organization, and fails to take into account that, even at 30 percent of the crop handled, the cooperative would still represent over 50 percent of the total number of almond growers in the State of California.

The proponent testified that, without obtaining a list of the cooperative's growers, it is not possible to determine if, in fact, the cooperative does represent over 50 percent of the total number of growers in the State of California. The proponent further testified that Board representation should be based on tonnage in all circumstances.

An opponent testified that if, in ten years, the cooperative represented ten percent of the industry, the cooperative should not have five seats on the Board. Another opponent testified that he would prefer the whole industry to operate on a tonnage basis.

Record evidence indicates that currently, there is strong industry

support to maintain Board membership representation with the cooperative and independent segments being authorized to hold the specified numbers of seats proposed in Material Issue Number 6. However, in the event the industry structure changes in future years, there may be a need to further modify the structure of member representation.

Record evidence does not support amending the marketing order as the proponent recommended. The evidence does support, however, authorizing the Board, with the approval of the Secretary, to modify the membership representation requirements in the future if the industry structure changes.

This would allow the Board, with the approval of the Secretary, to recommend modifications to the representation requirements, if necessary, through informal rulemaking procedures. This would provide additional flexibility in the program by providing and ensuring that the Board continues to fairly represent all segments of the industry.

Therefore, this proposal is recommended, in part, by authorizing the Board, subject to the approval of the Secretary, to reapportion the grower and/or handler member representation among the 12 member positions, of any group listed in the proposed § 981.31 (a) through (c) to be nominated as a Board representative. This proposal does not intend that the Board may increase or decrease the number of members on the Board. The Board may reapportion the positions within the 12 member Board. A new paragraph (d) has been added to § 981.31 to set forth this recommendation.

Material Issue Number 15

The proposed amendment to section 981.12 would have revised the definition of grower. At the hearing, the proponents for this amendment revised the amendatory language that was published in the Notice of Hearing as follows: For the purpose of holding a grower seat on the Board, a grower would be required to have over 50 percent of his or her involvement and income in the almond industry derived from growing almonds. A grower wishing to run for a seat would certify to this criterion on the nominating petition.

Proponents testified that, in the past, some grower seats have been occupied by persons who were basically handlers. It was perceived by growers that they consistently represented a handler point of view at the expense of the grower. The proposal is intended to ensure that the grower seats on the Board are represented by growers and the growers' interests are reflected and represented. The proposal would only apply to independent growers who are nominated to become members or alternate members on the Board because its purpose relates to nominations for Board positions.

At the hearing, proponents testified that the grower would sign a certification that over 50 percent of his or her involvement and income in the almond industry was derived from growing almonds and would make that known to all growers when running for a Board position. If an opponent had signed the certification and it was well known that the opponent was basically a handler, the grower could raise that issue during the campaign. Proponents also testified that the grower would be making the determination as to the 50 percent involvement and income, and there would be no penalty for falsifying the certification. In addition, if a grower refused to sign the certification, the grower would be ineligible to serve on the Board.

Record evidence indicated that although certifications by growers could be signed during the nomination process, there is no procedure to verify such certifications, nor is there a penalty for a false certification. Therefore, the intent of this proposal would not be served.

The proposal has been modified by revising § 981.32, rather than § 981.12 as proposed by the proponents. Record evidence supported that the intent of the proposal is to only modify the definition of grower with respect to nominations of growers to the Board. It would not be appropriate to modify the grower definition under § 981.12 since this definition applies to the use of grower throughout the marketing order.

It is therefore proposed that a new paragraph be added under § 981.34 to further define grower for nomination purposes. The record evidence supports a grower definition that would allow growers to be nominated to the Board that would truly represent grower interests. However, the proponent's amendment would not be enforceable as proposed and would not accomplish the intent of the amendment. Therefore, the Department proposes that the Board be provided the authority, with the approval of the Secretary, to make recommendations to establish additional eligibility requirements for growers, for nomination purposes, through informal rulemaking. This would allow the Board to further explore avenues to accomplish the intent of the proposed amendment. The amendatory language therefore has been modified to add such authority.

Material Issue Number 16

Section 981.70 should be amended to require handlers to maintain records in California to provide Board auditors with reasonable access and improve program management. Currently, § 981.70 only requires that the handler's premises be accessible to Board auditors for records to be examined and audited.

At the hearing, proponents testified that Board auditors should not have to travel out of state to examine handler records. It is an economic burden on the Board, and therefore the almond industry, to pay travel expenses for Board auditors to travel out of state. In addition, it is necessary to have immediate access to handlers' records if compliance issues arise.

An opponent testified that handlers could be burdened by being required to maintain all records in California. He stated that some needed records could be the buyers' or the shipping company records. In addition, the witness testified that the terms ''as well as other pertinent information regarding his or her operations'' could lead to abuse if the person determining what is ''pertinent'' selects some unreasonable records such as tax returns to be maintained in California.

The purpose of this proposal is to keep handlers from maintaining all their records in a different state making it difficult for the Board to effectively audit handler's records. It is not intended that handlers maintain records in the state that would not normally be maintained, such as buyers' or shipping company records. This proposal does not intend to add any undue hardship on handlers and the proposal, as written, does not make unnecessary or unreasonable requirements on handlers. The language which would require different types of records than those specified, if necessary (''other pertinent information''), is necessary to account for the many different recordkeeping systems maintained by handlers.

Maintenance of records within the State of California would assure that the benefits from marketing order compliance activities exceed related costs. It is not expected that any additional costs would be incurred by handlers to comply with this amendment. Therefore, this amendment is recommended as proposed.

Material Issue Number 17

The proposed amendment to section 981.70 would have required that the Board provide handlers with 24 hours advance notice before they conduct audits of records and inspections of reserve almonds. In addition, handlers

would not have been required to provide any labor or equipment to the Board to facilitate inspections.

Currently, § 981.70 provides that each handler's premises shall be accessible to authorized representatives of the Board and the Secretary for examination and audit of handler records and for inspection and observation of reserve almonds. The Board shall make such checks of almonds or audits of each handler's records as it deems appropriate or as requested by the Secretary to insure that accurate information as required in this part is being furnished by the handlers.

A proponent testified that handlers may be busy with almond buyers and may not have time to show all the records that Board auditors need to examine during an audit visit. The proponent testified that handlers should be made aware of the audit visit in order to make preparations to have the records made available for the audit. Further, the proponent stated that handlers should be treated like businesses and not as if they are under constant suspicion of violating the marketing order. In addition, the proponent testified that if a handler does not desire to assist and aid the Board in conducting the audit, the handler should not be required to furnish labor and equipment to do it. The handler should not be required to bear the expense or the liability of conducting handler audits.

The record evidence indicated that the almond industry is subject to Federal regulations under a marketing order. Regulated industries that choose to participate in a Federal program are subject to inspection of records. The marketing order currently contains authority to allow the Board to conduct checks of almonds or audits of each handler's records. Testimony indicated that the Board has the authority to make these visits without prior notice. The record evidence supports this provision remaining in order to properly carry out the regulatory aspects of the order.

At the hearing, additional testimony in opposition to the proposal indicated that Board staff usually schedules appointments with handlers ahead of time to maintain a positive and courteous relationship between the Board and the handlers. However, the reality remains that all handlers do not comply with the provisions of the marketing order. Opponents testified that removal of the authority to make unannounced visits to audit handlers would remove an important compliance tool from the Board and the Secretary. A handler with something to hide would have plenty of time to conceal vital documents from scrutiny by authorized Board personnel.

Opponents further testified that most handlers prefer to conduct any movement of product by using their own personnel and equipment at their premises. Handler personnel would also be familiar with the location of reserve almonds that would need to be examined.

Accordingly, the record evidence does not support the amendment to require the Board to provide handlers with 24 hours advance notice before it conducts audits and inspections or for handlers to not be required to furnish any labor or equipment to the Board to facilitate inspections. Therefore, this proposed amendment is not recommended.

Material Issue Number 18

The proposed amendments regarding §§ 981.76 and 981.90 would each require handlers to submit to the Board a list of growers who have delivered almonds to such handler during the crop year. Because these proposals would provide for essentially the same recommendation, they will be discussed as one material issue.

The proposed § 981.76 would require each handler to submit to the Board, no later than December 31 of each year, a complete list of growers who have delivered almonds to such handler during the crop year. The proposed amendment to § 981.90 would require each handler to submit to the Board, no later than January 31 of each year, a list of names and addresses of all growers from whom such handler received almond production for the then current crop year.

Currently, the marketing order does not require such information to be submitted to the Board under any section. Such information is submitted to the Board by most handlers on a voluntary basis for nomination purposes.

Proponents testified that the proposals are intended to help the Board be more efficient in conducting elections for Board members and alternate members. Since the list is currently submitted to the Board on a voluntary basis, the Board is not assured that it has a complete and accurate list of growers to use in conducting the election of Board members. In order for the Board to operate efficiently, it is necessary for the Board to reach as many growers as possible. Mandatory submission of grower lists would help accomplish this goal. The proponents testified that the amendment would help provide the widest possible participation by growers in the election process.

The proponents stated that this requirement would respect the private business relationship between a grower and handler. The proprietary nature of the relationship would be respected by the Board and that information would not be divulged by the Board.

A proponent testified that the list would be used for annual elections of Board members and for periodic continuance referenda. The list would not reveal a grower's handler affiliation. This proposal would further provide that the Board could charge handlers and growers who request the list for photocopying and mailing.

A witness testified that the cooperative grower list is needed when periodic continuance referenda are conducted because other interested parties to a referendum have a right to know who those growers are so they are in a position to provide them information which may influence their vote. This witness further testified that the Board should know who these 4,000 growers are so they are aware if any of these growers become handlers.

The opponents to the amendment testified that it is a well-established fact that lists of members of agricultural cooperatives are considered proprietary information. The witness testified that there are no other programs in which cooperatives are required to release such a list and the Department has long recognized that cooperatives are not required to reveal the names of their members. Many farmers who belong to agricultural cooperatives do not want their names and addresses used for purposes other than those needed by the cooperative to properly perform its business functions. The opponents further testified that the only reason for a requirement for handlers to submit grower lists is for the use in the election of Board members representing those marketing through independent handlers.

Opponents testified that Board elections have been conducted with wide publicity and all growers have an opportunity to participate. The cooperative informs all its members when elections do take place even though Board members are nominated by the cooperative's board of directors.

An opponent testified that the release of such information would be controlled directly by the Department, which in turn is controlled by the Administrative Procedure Act, the Freedom of Information Act, and the Privacy Act, as well as court interpretations. By including the proposed language in the marketing order, the Board could face a situation in which the marketing order mandates release of information while

the Department and the courts or both may require that the information not be released. Therefore, the question of release of information should be left to the Department.

A brief filed by Mr. Steven W. Easter of Blue Diamond Growers stated that the two similar proposals discussed at the hearing were worded slightly differently but they essentially provide for the same thing. Both proposals are directed at requiring Blue Diamond Growers to turn over its cooperative membership list to the Board. Both proposals represent an effort by independent handlers and growers to obtain the membership list of their principal competitor, Blue Diamond Growers.

Mr. Easter stated that there is no other proposed amendment nor any current provision that requires a cooperative, including Blue Diamond, to furnish its membership list to the Board. It is well established that growers may contact the Board directly to be placed on the Board's mailing list. Mr. Easter also stated that Blue Diamond provides notice of all elections to its members directly. This satisfies Blue Diamond's contractual obligations with its members and the Board's desire to have all members of the industry notified of elections. The witness stated that this system has worked for 43 years.

Mr. Easter further provided in his brief that Blue Diamond's membership list contains the names and addresses of all of its grower/supplier members and is, in that sense, its customer list. Under California law, customer lists have been protected as trade secrets under the Trade Secrets Act so long as they meet the definition set out in California Corporations Code. In conclusion, Mr. Easter stated that elections to the Board and referenda on proposed amendments and continuation have taken place since 1950 successfully. The guidance provided by the Board has enabled the industry to move forward in a beneficial manner. Mr. Easter requested that the proposal be rejected.

The record evidence indicates that it would benefit the Board to have a list of independent growers' names and addresses. Board elections would be conducted in a more efficient manner and there would be greater assurance that all growers are informed regarding activities centered on Board elections. The record evidence supported that it is not necessary for the Board to obtain the names and addresses of cooperative growers for nomination purposes since those Board members are selected by the cooperative's board of directors. Although grower lists not revealing handler affiliation can be obtained by requesting the list from the Department under the Freedom of Information Act, the Board is responsible for confidentiality of handler information and does not release a complete growers' list.

When continuance referenda are conducted, a method to ensure that ballots are provided to all cooperative growers would have to be derived. For example, one method would be for the Department to provide the ballots to the cooperative and obtain a sworn statement from a representative of the cooperative attesting that all growers were sent ballots. It would be in the best interest of the cooperative to ensure that all of its growers vote in referenda and USDA will ensure that a satisfactory method has been established when continuance referenda are conducted.

In the event a cooperative chooses to bloc vote for all its members in a referendum, the Department would require the cooperative to submit a grower list to verify that none of those members also voted individually. However, this is not sufficient reason to require the cooperative to submit a grower list to the Board on an annual basis since the Board does not need that list to conduct its operations.

Regarding the testimony that the Board needs to know the cooperative growers in case any of them become handlers, this does not appear to be sufficient reason to require this list from the cooperative. The Board has an established compliance program to address compliance issues and needs. Also, if a grower list is desired, such a list can be obtained from other sources. Testimony indicated there are alternative sources for that information.

For the above stated reasons, the proposed amendment is modified to allow the Board to request from independent handlers their growers' names and addresses for purposes of elections. The lists would be submitted no later than December 31 of each year to facilitate Board administration. The proposed amendment, as modified, is therefore recommended.

Material Issue Number 19

Section 981.81 should be amended to add authority to require handlers to pay interest and/or late payment charges in order to discourage late payment of assessments.

Currently, § 981.81 requires handlers to pay to the Board on demand assessments on almonds received by the handler for the handler's own account. There is no provision for a late payment or interest charge.

The proponents testified at the hearing that the Board's experiences with collection of assessments for administration, research and generic promotion have been frustrating. At the present time, about 90 percent or more of the handlers promptly pay the assessments when due, others are at times slow to pay. As of June 30, 1993, the Board was owed past due assessments totaling several million dollars. If these amounts had been paid promptly, the funds received could have been utilized for Board programs. The proponents do not believe that it is equitable for late paying handlers to benefit from the wide variety of Board programs financed by handlers who pay on time. Significant industry support is necessary in order for the marketing order to be successful.

An opponent to the proposal testified that handlers who challenge the assessment rate would be penalized if they pay the assessment in order to avoid the late charges because they would not recoup the assessments paid if they prevail in their challenge. This position is discussed in detail in Material Issue Number 20 which deals with another proposal to authorize payment of interest in the event a suit or administrative petition regarding payment of assessments is successful.

This witness further testified that if this proposal is authorized and regulations are implemented, it would be better to require that the payment be postmarked within 30 days from the invoice date rather than received in the Board office within 30 days.

The proponents testified that the Board envisioned implementing the specifics of the late payment and/or interest charges through informal rulemaking with the Secretary's approval. This would allow the Board to remain flexible with the establishment of the interest and/or late payment charge. The Board proposed language for the regulations in this proceeding. However, USDA has determined that this would be better accomplished by the Board recommending to the Secretary an informal rulemaking action at a later date if this provision is implemented.

The suggestion that payments be postmarked within 30 days of invoice to be considered timely does have merit. When assessing interest charges for late payment, it would appear reasonable that handlers be allowed 30 days from invoice to mail these charges to the Board. The Board should consider this suggestion when making a recommendation to the Secretary to implement the regulations regarding late payment and/or interest charges.

The record evidence supports this proposed amendment and therefore, it is recommended.

Material Issue Number 20

This proposed amendment to the order would have required refunds plus payment of interest to a handler in the event a suit or administrative petition filed by such handler challenging the payment of assessments is successful. No specific amendatory language was provided.

The proponent testified that there have been several challenges to the almond, orange and tree fruit marketing orders. In these cases, the proponent stated that the Judicial Officer of USDA did not authorize the prevailing handler to recoup the assessments paid. The proponent also testified that the Agricultural Marketing Agreement Act permits handlers to challenge provisions of federal marketing orders, including the establishment of assessment rates. The Board's proposal to add an interest and/or late payment charge would penalize handlers that challenge the assessment rate since they would have to pay the assessment to avoid the late charges but would not receive the assessment back if they prevail. In addition, the Department argued in court that the Board would have to vote for a prevailing handler to have assessments returned and the funds would have to be approved in the Board's budget.

The proponent further testified that it is better to address the issue at this time by putting the provision in the marketing order than to wait for the Department to tell the Board they have to pay the handler back their assessments plus interest. It was discussed at the hearing where the money should come from to pay back the handler, and the proponent testified that such money should come from the Department. If not from the Department, the money should come from the industry. The witness testified that the Department continues to approve every proposed rule for assessments over the proponent's objections, therefore, they should pay the money back to the prevailing handler.

Opponents to the proposal testified that they are opposed for three reasons. First, there was no language specified to analyze the proposal, therefore, their understanding of the subject was vague and undefined. Second, the proposal refers to the legal rate of interest which is not compatible with the Board's proposal. Third, the term ''successful'' is not defined to differentiate between an administrative ruling before a law judge or the final review by the Judicial Officer. The opponents further testified that such rulings may be reviewed by the District Court, therefore, this proposal must be opposed because it does not clearly state at what point a handler could claim a refund of assessment and the accompanying interest. Also, depending on the timing of such refund, the Board may not have funds available to make the refund.

The proponent responded to the opposition by stating that he has no qualms with stating that the interest rate be the same as what the Board established. Also, that within 30 days of a final non-appealable decision being made, the Board should make the refund. Finally, if the Board does not pay back the prevailing handler in 30 days, the Board would be required to pay a five percent penalty.

The record evidence does not support this proposed amendment. Section 610b(2)(ii) of the Act provides that handlers regulated by marketing orders pay their pro rata share of such expenses as the Secretary may find are reasonable and likely to be incurred during a specified period for the maintenance and functioning of the marketing order. Section 608c(15)(A) of the Act provides a method for challenging marketing order provisions, including the requirement to pay assessments, through administrative petitions. In addition, several of the issues which this proposal raises are currently being appealed to the Ninth Circuit.

Therefore, this proposed amendment is not recommended.

Material Issue Number 21

The proposed amendment to section 981.4 would have amended the definition of ''almonds'' to exempt certified organic almonds from the entire marketing order.

Currently, the marketing order does not differentiate between almonds that are organically grown and those that are not.

The proponents for this amendment testified that the markets for organic almonds are totally separate from those for conventionally grown almonds. The organic tonnage of almonds in the industry is very small. The proponent testified that he empathizes with the organic growers since they do not want their money spent on Board programs that do not benefit organic almond growers and handlers. The proponent stated that the California Department of Food and Agriculture has strict requirements for certified organic commodities and penalties if growers violate them.

Opponents testified that it would be difficult to determine if an almond has truly been organically grown. While it is true there are voluminous regulations on organic products, once the almonds reach the market place, it is impossible to discern organically-grown almonds from those that are not organically grown. In addition, the opponent testified that organic growers currently benefit from the various programs conducted by the Board. The Board is pursuing a very active program of promoting almonds. Organic growers benefit from the perceived value of almonds that result from such aggressive promotion programs. There are also many production research programs sponsored by the Board that benefit organic growers as well as other almond growers. They include crop irrigation management, bud failure, nematode infestation, integrated pest management and problems from Africanized honey bees. The opponent further testified that all segments of the industry are interested in finding the most cost-effective, reliable method of increasing production and delivering a high-value, safe product to the consumer. In addition, the opponent stated that the Board is committed to working with organic growers to ensure that their interests are considered in making Board recommendations.

Several organic growers and handlers submitted proposals for differential treatment under the almond marketing order, but did not propose the organic community be entirely exempt.

Accordingly, the record evidence does not support the amendment to exempt organic almonds entirely from the marketing order. Record evidence shows that organic growers do reap some benefits from the order and its programs, which include certain research activities and the new Credit-Back advertising program. Therefore, this proposed amendment is not recommended.

Material Issue Number 22

The proposed amendment to § 981.41 would require that handlers not be assessed for marketing promotion, including advertising for the number of pounds of certified organic almonds handled. Currently, there is no provision in the marketing order to exclude organic almonds from the marketing promotion program.

The proponents for this amendment testified that the proposal is intended to provide an exemption for certified organic almonds from the advertising assessments since advertising for conventional almonds is not relevant to the market for certified organic almonds. The market for organic almonds is not yet well developed and does not benefit from generic advertising of almonds. The market is a

niche market, made up of consumers who are seeking a guaranteed organic product. Any effective advertising must be geared to that market. The proponents testified that there are strict penalties for violating the certified organic regulations. Under Federal law, it is a violation to sell anything as organic that is not certified organic, and there is a fine of up to $10,000. In addition, any person found to have violated the law can be prohibited from organic certification for five years.

The proponents stated that buyers of certified organic almonds include natural food stores, consumers through mail order, roadside stands, certified farmers markets and specialty health food distributors. The end user is a consumer looking for an organic product first. If the consumer cannot find organic almonds, the consumer is more likely to substitute a different organic product rather than conventional almonds. Under the current assessment program, even if the certified organic handlers fully participate in the credit-back program, 50 percent of their assessment would still support generic advertising which is not relevant to their market. This proposal would have a positive benefit on growers and handlers of certified organic almonds, most of whom are small businesses.

Another proponent testified that certified organic almond handlers need relief from the burdens and restrictions imposed by the Board. Certified organic almonds have very little in common with commercial almonds. Promotion and advertising requires a different direction and a totally different target market which is not acknowledged by the Board.

Testimony in opposition to the amendment indicated that organic almonds should continue to fall under the marketing order and be assessed for marketing promotion. The opponent testified that all almonds benefit from generic advertising and promotion campaigns conducted by the Board. This includes growers that grow the Mission variety of almonds that appeals to the candy manufacturers. However, the opponent testified that Mission variety growers are not asking to be exempt from the order. The witness further stated that pooling industry resources can stimulate industry growth for the benefit of everyone. The opponent stated that the Board has made an effort to reach out to the organic growers and establish dialogue on key issues. The witness testified that there is a lot of common ground and that the industry can continue to build on that common purpose and interest by working together rather than working apart.

The record evidence supports that the organic market is a separate and distinct market. Although testimony indicated that generic advertising for conventional almonds could have a limited effect on organic consumers, the organic industry may not benefit directly from the Board's generic advertising program. However, the evidence did show that organic handlers could derive some benefit from the Board's new Credit-Back advertising program. The Board has stated that it wants to work with the organic segment of the industry and recognize them as an important part of the industry. Therefore, the Department is modifying the amendment to provide that the Board may, with approval of the Secretary, exempt certified organic almond handlers from the advertising assessment through further informal rulemaking. This would provide the Board and the organic segment of the industry with the flexibility of exempting handlers of certified organic almonds from the advertising assessment. It would also provide for development of a framework to implement and verify compliance with such an exemption. Therefore, the proposed amendment is recommended as modified.

Material Issue Number 23

The proposed amendment to § 981.41 would require that a minimum of 25 percent of funds collected for projects involving production research shall be spent on research and development of production methods which reduce or eliminate the use of synthetic chemicals in the production and handling of almonds. Under the current marketing order, there is no requirement that a minimum amount be spent in any certain area.

The proponents testified that this amendment is intended to benefit all almond growers by finding ways to reduce and eliminate the use of synthetic chemicals. This effort is especially important in light of the restrictions on continuing availability and use of certain agricultural chemicals. Record evidence indicated that this research activity would be coordinated by the production research committee of the Board. The proponent recommended the appointment of one or more growers of certified organic almonds to the production research committee. The committee would issue a request for proposals that contribute to finding new production techniques which reduce or eliminate the use of synthetic chemicals. The committee would then allocate a minimum of 25 percent of funds, earmarked for research, for such proposals.

The proponents further testified that the amendment would require a positive effort to seek out and fund proposals that investigate ways to reduce chemical use. Such a pro-active policy by the Board would send a signal to the research community to generate these proposals. It would also send a message to the public that the Board is taking steps to improve the environment through reducing the use of synthetic chemicals. This effort is important to the future of the industry for two reasons: (1) Various agricultural chemicals commonly used by almond growers are being phased out and will be taken off the market by government regulations; (2) very little research is currently being conducted on non-synthetic alternatives for almond growers and handlers. The proponent testified that she is aware of only one Board research project in this area.

The proponent testified that this proposal would help all almond growers and handlers face the challenges of decreasing availability of agricultural chemicals and increasing pressure from environmental groups. Developing such alternatives would protect growers and handlers from potential large crop losses and would satisfy consumer demand for reduced chemical usage. The proposal would also have a positive effect on small businesses since most growers and handlers of organic almonds are small businesses.

At the hearing, opponents did not believe that one tenth of one percent of the industry should be in a position to dictate to the other 99.9 percent of the industry how to spend its funds, especially considering that this small segment is attempting to be exempt from certain major areas of the order. The proponent testified that the organic community believes that this proposal would be beneficial to the whole almond industry. Every grower is under pressure to reduce chemical use. The proposal would give the industry the tools to meet production needs and to reduce pest and diseases without using chemicals. It was further discussed that organic almond growers have not brought forth any research projects to the production research committee. Also, the proponent was not aware of any such research projects being turned down by that committee.

It was also discussed that the marketing order currently contains authority to accomplish the proponents' goal. If the proponents attended the production research meetings and provided information on the needed

research in those areas, they could possibly convince the Board to fund projects in the proposed area. In addition, testimony was offered that the Board may not be able to find within the research community projects to reach the 25 percent minimum that is proposed. The proponents testified that if a bona fide effort was made by the Board to obtain such projects, funding a lesser percentage would not be a problem. A bona fide effort by the Board would include: (1) Prepare a request for proposals that specified the type of research that is desired by the Board; (2) clarify the amount of money that is being set aside for that type of proposal; and (3) distribute widely to the universities, the extension service and to other known researchers, notice of the opportunities to conduct this type of research.

Another proponent of the amendment testified that some of the areas that need immediate attention are the study of soil biology, fungus control, climatic and economic thresholds, understanding the value of beneficial organisms, developing environmentally sound methods of production, wildlife habitat enhancement, etc. The proponent further testified that if the Board is spending its money, it should be on projects that directly benefit the organic farmer as well as the community at large.

The opponents testified that the Board has a very strong commitment to production research. Currently, the Board has budgeted $500,000 for various research projects. The benefits of these studies are shared throughout the industry. The Board invites members of the organic almond community to participate at the production research committee meetings and take part in the process which determines which studies will be funded. The witness testified that the process of open committee meetings in which there can be active dialogue best lends itself to achieve the goal of this proposal. The witness testified that a bad precedent would be established by having a marketing order amendment to guarantee funding for one particular research project, no matter how well intentioned. Such action would leave the door wide open for a long line of groups demanding the order be amended to accommodate their needs. The witness testified that the framework exists which can be used by the organic community to make its case for funding projects as proposed.

The opponent also testified at the hearing that the Board is currently funding such type of projects. For example, one project is to find ways to reduce the use of chemicals in controlling the navel orangeworm, which is one of the worst pests in the almond industry. Through the project, the Board has been instrumental in reducing such chemical usage, but their use has not been eliminated yet.

The record evidence does not support this proposed amendment. The authority is currently in the order for such projects as proposed to be conducted. In addition, the Board is currently funding projects which are intended to reduce the use of synthetic chemicals. Record evidence indicates that the Board wants to work with the organic almond community to recognize them as an important faction in the industry. If the organic almond community works with the Board and takes an active part in the process of determining the expenditure of production research funds, they will make their voice heard and assist the Board in making expenditure decisions that will help to benefit the whole almond industry.

The record evidence also supported that there may not be enough sources of research to obtain the proposed 25 percent of the production research funds and this proposal would be too restrictive for the Board. Therefore, for the above reasons, the proposed amendment is not recommended.

Material Issue Number 24

Sections 981.47 and 981.50 should be amended to require that the Secretary shall exempt from any reserve, that part of the crop which is sold as ''certified organic almonds'' under standards established by the Organic Foods Act of 1990 and the California Organic Foods Act of 1990. The Board may propose regulations to assure procedures to implement this section.

Currently, there is no requirement in the marketing order to exempt certified organic almonds from the reserve provisions.

The proponents testified that they are proposing the exemption because certified organic almonds are a distinct and different product from conventional almonds. There are many laws and requirements for a farmer to become certified as organic. First, the California Organic Foods Act of 1990 requires that any foods sold as organic are grown without the use of prohibited materials. Prohibited materials are all synthetic products. No prohibited materials can be used in the soil for at least one year prior to the season in which the crop is grown. Handlers are also restricted from using any prohibited materials. California law requires extensive recordkeeping by organic growers and handlers. California law also requires that each grower and handler of foods sold as organic must be registered annually with the State. The State intends to strictly enforce provisions of the organic program. Two growers have been recently fined $7,000 or more for violations. The certification process is quite lengthy and costly.

The proponent testified at the hearing that certified almonds are a distinct product from conventional almonds. They are sold into a different market than conventional almonds. The price for certified organic almonds is significantly higher, approximately 30 to 44 percent higher than for conventional almonds. Certified organic almonds only comprise about one-tenth of one percent of the total almond industry. A 1992 report by the University of California Cooperative Extension Service states that, ''At present, no bulk commodity market exists for organically grown almonds. Because of this, market fluctuations and pricing of conventionally-grown almonds do not directly affect the market for organically-grown almonds''. Certified almonds are sold in a niche market to consumers whose first concern is purchasing an organic product. If organic almonds are not available, the consumer will be more likely to substitute another organic product instead of conventional almonds. Many wholesalers and retailers of organic almonds do not purchase conventional almonds.

At the hearing, the proponent testified that a reserve requirement for certified organic almonds disrupts the market and is contrary to the intent of the provision. The market for certified organic almonds is chronically under-supplied. Therefore, a reserve which removes product from the market disrupts the flow of supply to the market.

The proponent testified that organic almonds are more difficult to store since most fumigation practices are prohibited. Although methods have been developed to store organic almonds, the normal marketing season of organic almonds is not as long as that for conventional almonds. Many organic growers therefore, use cold storage which can be quite expensive. When a reserve is implemented, handlers keep a percentage of certified organic almonds off the market and are unable to meet market demand. In addition, handlers have been unable to fill buyer orders even though they have certified organic almonds in reserve.

The proponent further testified that the proposal would have a positive impact on small businesses since most

organic almond growers and handlers are small businesses.

At the hearing, it was discussed that there is an extensive audit trail from the organic grower to the handler so there would be no confusion as to which almonds would be organic or conventional. Testimony was also offered that if a conventional lot and certified organic lot were commingled, the almonds could no longer be sold as certified organic almonds. Also, containers that include certified organic almonds have to be extensively identified.

Opponents at the hearing testified that certified organic growers do benefit from many programs under the almond marketing order. The reserve program is one such program that needs participation by all members of the almond industry. By excluding organic almonds from the reserve, a two-tiered system would be implemented creating dissension within the industry and in the long run would act against the organic growers' best interests by alienating them from the industry. The Board is supportive of attempts to include the interests of organic growers on all policy matters discussed by the Board. In the testimony by the proponents, they indicated that many of the regulations governing organic farming are just now being developed. The Board addressed this issue when the 1990 reserve was established. At that time, organic growers requested that the Board exclude or declare organic production a reserve outlet. That request was denied by the Board. It was thought at that time that the organic program was not fully developed and there could be a lack of a reliable system of certification and tracking. The opponent testified that there is now a complete system in place and given the information the Board now knows the Board could make a decision to use organic almonds as an outlet for reserve almonds. The witness testified that the marketing order currently contains language to accomplish what the organic community wants without this amendment. The organic almond production could be evaluated on a yearly basis to determine if certified organic almonds should be part of the reserve.

The record evidence supports the merits of this amendment. The proponents have presented a compelling case that certified organic almonds are unique and are sold into different markets. During a reserve year, handlers of organic almonds are unable to supply all of their buyers with certified organic almonds. The certified almond growers and handlers must follow strict regulations to ensure that they are selling certified organic almonds in the marketplace. Certified organic almonds can be traced by a paper trail to the retail level. If commingling occurs with non-organic almonds, they are no longer considered certified organic. There are State and Federal laws regulating the practices of certification of organic products. Storing organic almonds is problematic because most fumigation practices are prohibited. Certified organic almonds currently comprise only one-tenth of one percent of the almond industry.

Certified organic almonds can currently be exempted from reserve provisions by designating them as an authorized reserve outlet under an agency agreement recommended by the Board and approved by the Secretary. This can be done on a yearly basis when a reserve is recommended. However, record testimony has shown that the imposition of a reserve on certified organic handlers in any year could be unnecessarily detrimental to this segment of the industry with no proven benefit to the industry as a whole. Therefore, the proposed amendment is recommended.

Material Issue Number 25

The proposed amendment to section 981.80 would have allowed the Board to contract for periods of five years for services, goods or other reasonable expenses.

Currently, section 981.80 specifies that the Board is authorized to incur expenses during each crop year. The recommendation of the Board for their expenses each year must be submitted to the Secretary on or before August 1 of the crop year. Expenditures are then incurred on a yearly basis.

Proponents testified at the hearing that the Board has been handicapped in the areas of research and marketing by the inability to enter into multi-year contracts. The Board is required to do business on a year-to-year basis. Some contracting parties become disillusioned because a concept may take several years to develop and implement and they are restricted to contracting for only a year at a time. The contracting parties may find that it is not economically feasible to enter into a contract without a commitment of more than one year. This often results in lost opportunities for the Board in being forced to negotiate for a one year contract that may be more expensive and less desirable than a contract covering more than one year.

At the hearing, the proponents stated that the California Agricultural Statistics Service (CASS) was asked to deliver a proposal for an acreage survey. The cost of the survey was considered to be too high for a single year's budget. The CASS then suggested a two year proposal in which they would survey one half the crop one year and the other half the next year. Record evidence indicated that the Board contracted to survey one-half this year, but will be prohibited from committing to the project's completion. A new Board next year may change its mind which could lead to development of a survey for one half of the crop. This would not be a desirable use of Board's funds.

The proponents further testified that the adoption of this amendment would have a positive economic impact. The Board does not anticipate that all or most future business activities would take the form of a multi-year contract. However, where needed and cost effective, the proponents testified that the ability to enter into such agreements should be available.

At the hearing, further discussions focused on the proposal to have three-year terms of office for Board members and how this would affect five-year contracts that could be in effect. Proponents testified that this particular situation occurs everyday in businesses and corporations where the directors that are there could very well be turned over and not be there when the contract comes to a conclusion. The proponents further testified that they envision that such multi-year contracts could be used for a building lease or the development of a new almond product.

The record evidence shows that marketing order committees have already been given permission, on a case-by-case basis, to enter into multi-year contracts, although such contracts are contingent on the marketing order remaining in effect. Also, some of the Board's research and promotion projects are currently four or five year projects. Proponents, however, testified that these projects have been funded only on a yearly basis. The record evidence showed that funding a project on a year-by-year basis would allow the Board to evaluate the progress of the project and decide if it should be continued. The marketing order is designed to operate on an annual basis and to be evaluated by the Secretary on an annual basis. The record evidence also showed that the Department has given permission to marketing order boards and committees, on a case-by-case basis, to enter into multi-year contracts.

The Act provides that marketing order committees establish budgets and assessment rates on a periodic basis. The marketing order requires that the

expenses and assessment rate be established for each crop year. This allows for evaluation by the Board and the Secretary of Board activities on an annual basis. The Secretary is responsible for oversight of Board activities and believes that this proposal could limit the annual reviews as well as restrict the activities of future Boards. It is acknowledged, however, that multi-year contracts, in some instances, could benefit the Board by allowing for long-range, cost-effective planning. It is preferred that these situations be handled on a case-by-case basis.

Accordingly, the record evidence does not support the amendment for the Board to be allowed to enter into multi-year contracts. Therefore, this proposed amendment is not recommended.

Material Issue Number 26

Two proposed amendments to section 981.90 would require that continuance referenda be conducted. One proposal would have required that continuance referenda be conducted every five years beginning July 31, 1999, to determine grower support for continuation of the marketing order for almonds. Another proposal would have required that continuance referenda be conducted every four years with the first to be held in 1996.

Currently, there is no provision in the marketing order that provides for periodic continuance referenda.

The proponents for five-year referenda testified that the growers should have the ability to vote for continuance or termination of the marketing order. These referenda would allow growers to have a voice as to the value of the almond marketing order. The proponents testified that they realize that circumstances change over time, and therefore believe that a time period of five years would allow for a timely debate as to the merits of continuing or terminating the marketing order.

The proponents' proposal for five-year referenda also contained language regarding termination of the marketing order that is already contained in the order. The proponents testified that they would agree to the criteria which the Secretary may use in determining whether the marketing order should continue.

The order currently provides that the Secretary shall terminate the order if a majority of all growers favor termination and such majority produced more than 50 percent of the almonds for market within the State of California. Since less than 50 percent of all growers usually participate in a referendum, it is difficult to determine grower support for termination of an order.

Another way of assessing whether growers favor the continuation of an order would be to hold a continuance referendum using the same criteria as set forth in section 8c(8) of the Act with respect to producer approval of the issuance of a marketing agreement and order. This section of the Act requires approval by two-thirds of the producers voting in the referendum or by producers who have produced two-thirds of the volume of the production voted during a representative period. This is a reasonable and appropriate basis for determining whether almond growers favor continuation of the order.

In the event that the requisite majority of growers, by number or volume of production represented in the referendum, do not approve continuation of the order, the Secretary may consider termination of the order but would not be required to terminate. In evaluating the merits of termination, the Secretary would not only consider the results of the continuance referendum, but also would consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act. In this regard, the Secretary may solicit input from the public through meetings, press releases, or any other means. The proponents testified at the hearing that in evaluating the merits of continuing the order, they would like to see the Secretary not only consider the results of the continuance referendum but also consider information relative to the operation of the marketing order.

Proponents of the proposal for four-year continuance referenda testified that a vote for continuance should be held in 1996. They testified that two years of operating under the new amendments should be adequate time for the growers to make a well-informed decision as to whether the program is effective.

Proponents in favor of the four-year referenda proposal testified that because of the lack of referenda in the past (the only continuance referendum on the almond marketing order was conducted in 1989), it is appropriate to have a continuance referendum every four years.

Based on evidence and testimony submitted at the hearing relative to periodic referenda, the order should be amended to require that such referenda be conducted.

It is USDA's preference to provide for periodic referenda at least every six years to allow growers an opportunity to indicate their support for or rejection of the order. The record evidence demonstrates that the proposal for referenda every five years is reasonable and has widespread industry support. A referendum every five years would allow growers an opportunity to vote in favor or in opposition to the order as changes occur in the industry yet would not be wasteful of the Board's resources. For the above reasons, the order should be amended to provide for periodic referenda every five years beginning two years from the year these amendments are finalized. Conducting a continuance referendum two years after the implementation of the proposed amendments would allow the industry sufficient time to evaluate the new amendments and determine if the marketing order should continue in effect. Therefore, the proposed amendment, as modified, is recommended.

Material Issue Number 27

Sections 981.51, 981.54, 981.55, and 981.66, which relate to certain reserve provisions, should not be deleted from the marketing order. In addition, §§ 981.52 and 981.67, also relating to the reserve, should not be amended as proposed. Section 981.55 should be amended to clarify that handlers may be authorized to transfer reserve almonds to another handler.

Extensive record testimony indicated this proposal had three basic purposes. One purpose was to eliminate authority in the marketing order that requires reserve almonds to be sold in secondary or market development outlets. Another purpose was to allow handlers to sell their reserve almonds and the accompanying reserve obligation to another handler. The remainder of the proposal was to make conforming changes in the order language to coincide with the two aforementioned purposes.

The proponent of this proposal testified that reserve almonds should not be required to be sold to secondary outlets (where the return is significantly lower). The proponent believed that this was not economically sound, and explained that, if reserves are established, the reserve almonds should ultimately be sold in normal competitive outlets at some point in the future. The proponent testified that reserve almonds could be carried forward for several years to augment short supplies in the event of a crop failure.

Opponent's testimony indicated that the option of having reserves in effect for consecutive years already exists in

the marketing order. The proposal would maintain that option, but would eliminate the order's flexibility to require disposition in non-competitive outlets. The proponent failed to offer any economic analysis in support of carrying reserve product forward indefinitely, as opposed to diverting the product.

The proponent also testified that the reserve program had been manipulated in the past by the Board in that Board members were aware of Board decisions well in advance of the rest of the industry, thus, placing them at an advantage over the remainder of the industry.

No evidence was presented at the hearing indicating that Board members are aware of final Board recommendations prior to the voting process. To the contrary, it was testified that many Board members act independently. Further, Board members are elected through a democratic process and, therefore, risk not being renominated if they do not fairly represent their constituency.

The proponent testified that handlers should be able to sell their reserve almonds and accompanying reserve obligation to other handlers. A large number of handlers in the industry handle a relatively small proportion of the crop and operate for only a few months each year. Other larger handlers operate on a year-round basis. The proponent testified that the smaller handlers, who would normally cease their handling operation, are forced to maintain, at an additional cost to them, the required inventory in good condition in storage. If these small handlers do not want to incur the additional costs, the proponent stated the only other option available is disposition to approved reserve outlets at significantly lower prices. The proponent stated that handlers that dispose of their reserve almonds in secondary outlets could be financially disadvantaged in the event the reserve is released to the saleable category after their disposition.

Opponents stated that the proposal contained several provisions and eliminations of provisions that appeared to be in conflict with one another. Therefore, it was not clearly understood what exactly the proposal in its entirety was attempting to accomplish. Additional rationale against the proposal was a general difference in philosophy regarding eliminating tools of the marketing order currently available to the industry.

As previously stated, the proposal contained three basic purposes. The first purpose involved eliminating the authority to require reserve almonds to be sold in secondary outlets. We agree with the position that there is authority in the marketing order to release all of the reserve, making it unnecessary to sell reserve almonds in non-competitive outlets, if recommended by the Board. Removing the Board's authority to recommend to the Secretary that reserve almonds be sold in these outlets would remove an option available to the Board that may be considered necessary and in the best interest of the industry under certain circumstances. It is determined that the Board should retain flexibility in this regard and that this portion of the proposal would place an unnecessary restriction on the Board in making recommendations to the Secretary regarding the reserve. For this reason, this part of the proposal is not recommended.

Record evidence supports the merits of the second portion of this proposal dealing with selling reserve almonds and transferring reserve obligations to another handler. The overall intent of the reserve program could still be met as long as the same total quantity of product was held off the market. Providing handlers the additional authority to transfer any or all of their reserve obligations to other handlers in the industry could help facilitate the operation of the reserve program by providing more flexibility. In order to ensure such a provision is administered properly, it would be necessary for the Board, with the approval of the Secretary, to implement regulations to effectuate such a provision.

The third purpose of the proposal involved eliminating certain sections of the order to correspond with the other purposes of this proposal. However, it is not necessary to delete these sections of the marketing order as proposed to accomplish that portion of the proposal that is being accepted and recommended herein.

For the aforementioned reasons, this proposed amendment is recommended, in part, by modifying § 981.55 to provide the authority for the Board, with the approval of the Secretary, to allow handlers to transfer their reserve obligation to other handlers.

Material Issue Number 28

The proposed amendment to § 981.50 would have required that, when a reserve is established, the first 250,000 pounds of almonds handled by a handler would be exempt from the reserve percentage. In addition, the exemption would not apply to a handler who has not been a handler and paid assessments for each of the two previous crop years and/or to one who has been associated or under contract with or is a director, controller, shareholder, owner, or partner in any other handler facility taking advantage of the exemption.

Currently, § 981.50 provides that each handler shall withhold from handling a quantity of almonds equal to the reserve percentage of the kernelweight of all almonds such handler receives for his/her own account during the crop year. There is no quantity reserve exemption in the marketing order at this time.

The proponent testified that the purpose of this amendment is to benefit small handlers. A small handler's cost per pound to operate is much greater than that of a larger handler. The small handler, defined as one who handles less than 250,000 pounds annually, would probably close such facility after the handling season, but must remain open to maintain the reserve almonds. Record evidence indicated that small handlers that handle less than 250,000 pounds would be treated differently since there would be a differential impact of reserve requirements on such handlers.

The proponent testified that the conditions for the exemption are there to prevent people from becoming handlers during the year of regulation to take advantage of the 250,000 pound reserve exemption. The condition for the exemption would prevent people from anticipating that a reserve is going to be established.

At the hearing, it was discussed that possibly a creative attorney could breakdown a single business into separate entities so that each one would handle less than 250,000 pounds to take advantage of the exemption. However, the proponent testified that he did not see that as a problem under this proposal because of the criteria for eligibility written into the proposal.

Opponents testified that the proposal would create two classes of handlers, those who have to participate in the reserve and those who do not. The proposal is also based on an arbitrary level of 250,000 pounds. Record evidence stated that the strength of the marketing order is that all members of the industry participate in the order and the rules and regulations apply to everyone across the board. The exemption would only serve to cut the industry into very small segments that would dilute the strength of the order. This proposal would create an opportunity for those inclined to take advantage of any loopholes and benefit from them. Opponents further testified that by eliminating a proportion of handlers from the reserve, the burden

would fall on fewer handlers causing them financial hardship.

The record evidence indicated that the Act provides that reserve provisions should be applied uniformly throughout the entire industry. While all handlers would have the same exemption under this proposal, those handlers that handled over 250,000 pounds would be regulated and those who handled less than that amount would not be regulated. The Department disagrees with the proponent's assertion that administering this proposal would not be problematic. It would be difficult to implement this proposal and develop equitable regulations covering all situations that could occur. The record evidence also indicated that this proposal could potentially have an effect on the market if there were many handlers that handled less than 250,000 pounds of almonds. This in turn would place more of a burden on those regulated handlers that handled more than 250,000 pounds of almonds.

Accordingly, the record evidence does not support the proposal to require that when a reserve is established, the first 250,000 pounds handled by a handler would be exempt from the reserve percentage. Therefore, this proposed amendment is not recommended.

Material Issue Number 29

The proposed amendment to § 981.71 would have required incoming inspections to be conducted no later than the last day of February during the then current crop year.

Section 981.71, which provides for furnishing statistical information to the Board for purposes of establishing the reserve obligation, was suspended indefinitely in 1975. Section 981.42 provides that handlers shall obtain incoming inspection through the Federal-State inspection service to determine the amount of inedible kernels in each variety and report the determination to the Board.

A proponent at the hearing testified that the incoming inspection is needed in order to determine the size of the industry's total crop. The industry needs to know no later than the end of February of each year, the quantity of almonds received by handlers for election purposes, Board statistical use, reserve calculations, and assessment calculations. The proponent testified that the longer inspection is delayed, the longer payment of assessments is also delayed. If the Board is going to receive the assessment money, they would prefer to receive it earlier. If a handler receives almonds after the February date, the handler should assume a penalty or completely reject the almonds for delivery.

Statistics presented at the hearing indicate, however, that since 1980 almonds received by handlers through the month of February in any given year have exceeded 97 percent of the total almonds received for the entire crop year. In most years, the receipts through February exceeded 99 percent of the total. Based on this information, there would be no appreciable difference in the estimated crop size at that point of the season if all almonds were required to be inspected by February 28 of each year. In addition, there would be no appreciable difference in handlers' share of the crop handled for election purposes.

Handlers are currently required to report to the Board all almonds received for their account during several prescribed periods. This information is combined with other information reported to the Board to determine handlers' assessment and reserve obligations. Inspection certificates are used to verify information reported to the Board and for determining inedible obligations. They are not necessary for the Board to make assessment billings and determine reserve obligations.

If implemented, this proposal may subject handlers to civil or criminal penalties for having product inspected after February 28. It would also have the effect of dictating to growers when they have to sell and deliver their product to a handler. It is conceivable that for financial reasons, a grower may choose to store his or her product until late in the season before selling it to a handler. This proposed amendment would, in effect, prohibit such a practice.

While the proposed amendment could, in some instances, serve to facilitate the operations of the Board, the positive aspects of such a proposal are outweighed by the negative. Regulating the industry in this regard would place an undue burden on both growers and handlers which is not necessary for the functioning and administration of the program.

For the reasons stated above, this proposed amendment is not recommended.

Rulings on Briefs of Interested Persons

Briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth in this recommended decision. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions of this recommended decision, the requests to make such findings or to reach such conclusions are denied.

General Findings

(1) The findings hereinafter set forth are supplementary to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of the said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of almonds grown in California in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act; and

(5) All handling of almonds grown in California as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in 7 CFR Part 981

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

Recommended Further Amendment of the Marketing Agreement and Order

For the reasons set out in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.14 is revised to read as follows:

§ 981.14 Cooperative handler.

Cooperative handler means any handler as defined in § 981.13 of this subpart which qualifies for treatment as a nonprofit cooperative association as defined in Section 54001, *et seq.* of the California Food and Agricultural Code. The Board, with the approval of the Secretary, may modify this definition, if necessary.

3. Section 981.16 is revised to read as follows:

§ 981.16 To handle.

To handle means to use almonds commercially of own production or to sell, consign, transport, ship (except as a common carrier of almonds owned by another) or in any other way to put almonds grown in the area of production into any channel of trade for human consumption worldwide, either within the area of production or by transfer from the area of production to points outside or by receipt as first receiver at any point of entry in the United States or Puerto Rico of almonds grown in the area of production, exported therefrom and submitted for reentry or which are reentered free of duty. However, sales or deliveries by a grower to handlers, hullers or other processors within the area of production shall not, in itself, be considered as handling by a grower.

4. Section 981.18 is amended by removing the word ''and'' at the end of paragraph (b); removing the period and adding '', and'' at the end of paragraph (c); and adding a new paragraph (d) to read as follows:

§ 981.18 Settlement weight.

* * * * *

(d) For inedible kernels as defined in § 981.8.

5. Section 981.19 is revised to read as follows:

§ 981.19 Crop year.

Crop year means the twelve month period from August 1 to the following July 31, inclusive. Any new crop almonds harvested or received prior to August 1 will be applied to the next crop year for marketing order purposes. The first crop year after the implementation of this amendment shall be a 13-month period.

6. Section 981.21 is revised to read as follows:

§ 981.21 Trade demand.

Trade demand means the quantity of almonds (kernelweight basis) which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution worldwide.

7. Sections 981.30 and 981.31 are revised to read as follows:

§ 981.30 Establishment.

The Almond Board shall consist of twelve members, each with an alternate member.

§ 981.31 Membership representation.

Membership of the Board will be determined in the following manner:

(a) Three members and an alternate for each member shall be selected from nominees submitted by each of the following groups designated in paragraphs (a)(1) and (2) of this section, or from among other qualified persons belonging to such groups:

(1) Those growers who market their almonds through cooperative handlers; and

(2) Those growers who market their almonds through other than cooperative handlers.

(b) Two members and an alternate for each member shall be selected from nominees submitted by each of the following groups designated in paragraphs (b)(1) and (2) of this section, or from among other qualified persons belonging to such groups:

(1) Cooperative handlers; and

(2) All handlers, other than cooperative handlers.

(c) One member and an alternate shall be selected from nominees submitted by each of the following groups designated in paragraphs (c)(1) and (2) of this section, or from among other qualified persons belonging to such groups:

(1) The group of cooperative handlers or the group of handlers other than cooperative handlers, whichever received for their account more than 50 percent of the almonds delivered by all growers as determined by December 31 of the then current crop year; and

(2) Those growers whose almonds were marketed through the handler group identified in paragraph (c)(1) of this section.

(d) The Secretary, upon recommendation of the Board, or other information, may reapportion within the 12-member Board, the number of grower members or handler members, or both, of any group listed in § 981.31 (a) through (c), to be nominated pursuant to § 981.32. Any such change shall be based, insofar as practicable, upon the proportionate amounts of almonds handled within any group.

8. Section 981.32 is amended by revising paragraph (a) and amending paragraph (b)(2) by removing the date ''March 31'' and adding in its place the date ''December 31'' to read as follows:

§ 981.32 Nominations.

(a) *Method.* (1) Each year the terms of office of three of the members elected pursuant to Section 981.31(a) and (b) shall expire, except every third year when the term of office for four of those members shall expire. Nominees for each respective member and alternate member shall be chosen by ballot delivered to the Board. Nominees chosen by the Board in this manner shall be submitted by the Board to the Secretary on or before February 20 of each year together with such information as the Secretary may require. If a nomination for any Board member or alternate is not received by the Secretary on or before February 20, the Secretary may select such member or alternate from persons belonging to the group to be represented without nomination. The Board shall mail to all handlers and growers, other than the cooperative(s) of record, the required ballots with all necessary voting information including the names of incumbents willing to accept renomination, and, to such growers, the name of any person proposed for nomination in a petition signed by at least 15 such growers and filed with the Board on or before January 20. Distribution of ballots shall be announced by press release, furnishing pertinent information on balloting, issued by the Board through newspapers and other publications having general circulation in the almond producing areas.

(2) Nominees for the positions described in § 981.31(c) shall be handled in the same manner as described in paragraph (a)(1) of this section except that those terms of office shall expire annually.

* * * * *

9. Section 981.33 is revised to read as follows:

§ 981.33 Selection and term of office.

(a) Members and their respective alternates for positions open on the Board shall be selected by the Secretary from persons nominated pursuant to § 981.32, or, at the discretion of the Secretary, from other qualified persons, for a term of office beginning March 1. Members and alternates shall continue to serve until their respective successors are selected and qualified.

(b) The term of office of members of the Board shall be for a period of three years beginning on March 1 of the years selected except where otherwise provided. However, for the initial ten members of the Board selected pursuant

to this section and to paragraphs (a) and (b) of § 981.31, three members shall serve for a term of one year; three members shall serve for a term of two years; and four members shall serve for a term of three years. For the initial terms of office, at the time of nomination under § 981.32, the Board shall make this designation by lot. The term of office for the two members selected under paragraph (c) of § 981.31 shall always be for a period of one year.

(c) Board members may serve for a total of six consecutive years. Members who have served for six consecutive years must leave the Board for at least one year before becoming eligible to serve again. A person who has served less than six consecutive years on the Board may not be nominated to a new three year term if his or her total consecutive years on the Board at the end of that new term would exceed six years. This limitation on tenure shall not include service on the Board prior to implementation of this amendment and shall not apply to alternate members.

10. Section 981.34 is revised to read as follows:

§ 981.34 Qualification and acceptance.

(a) Any person to be selected as a member or alternate of the Board shall, prior to such selection, qualify by providing such background information as necessary and by advising the Secretary that he/she agrees to serve in the position for which nominated. Grower members and alternates shall be growers or employees of growers, and handler members and alternates shall be handlers or employees of handlers. In the event any member or alternate ceases to be qualified for the position for which selected, that position shall be deemed vacant.

(b) The Board, with approval of the Secretary, may establish additional eligibility requirements for grower members on the Board.

11. Section 981.40 is amended by revising paragraphs (b) and (c) and amending paragraph (e) by removing the word ''seven'' and adding in its place the word ''eight'' to read as follows:

§ 981.40 Procedure.

* * * * *

(b) *Quorum.* The presence of eight members shall be required to constitute a quorum. All decisions of the Board shall be as follows except where otherwise specifically provided: 8 or 9 members present, 6 votes; 10 members present, 7 votes; 11 or 12 members present, 8 votes.

(c) *Voting by mail, telegram or fax.* The Board may vote by mail, telegram or fax upon written notice to all members, or alternates acting in their place, including in the notice a statement of a reasonable time, not to exceed 10 days, in which a vote by mail, telegram or fax must be received by the Board for counting. Voting by mail, telegram or fax shall not be permitted at any assembled meeting of the Board. When a proposition is submitted for vote by mail, telegram or fax, at least ten members of the Board must vote in favor of its passage or the proposition shall be defeated.

* * * * *

12. In § 981.41, paragraph (c) is amended by removing the colon and all text following the words ''15 percent'' in the last sentence and adding in its place a period and by amending paragraph (a) by adding a sentence at the end of the paragraph to read as follows:

§ 981.41 Research and development.

(a) * * * Notwithstanding the foregoing, certified organic almonds may be exempt from assessments for marketing promotion, including paid advertising, upon recommendation of the Board and approval of the Secretary.

* * * * *

13. Section 981.47 is amended by designating the existing paragraph as (a), removing the words ''either domestic or'' in the third sentence of paragraph (a), and adding a new paragraph (b) to read as follows:

§ 981.47 Method of establishing salable and reserve percentages.

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, the Secretary shall exempt from any reserve that is established that part of the crop which is sold as ''certified organic'' under standards established by the Organic Foods Production Act of 1990, (7 U.S.C. 2101 *et seq.*) and the California Organic Foods Act of 1990, as amended. The Board may propose regulations to assure procedures to implement this section.

14. In § 981.49, the introductory paragraph is amended by removing the word ''six'' and adding in its place the word ''eight'', by removing ''; and'' in paragraph (e) and adding a period in its place, by adding ''and'' at the end of paragraph (d); by removing paragraph (f) and by revising paragraph (b) to read as follows:

§ 981.49 Board estimates and recommendations.

* * * * *

(b) The estimated handler carryover and the estimated reserve inventory as of July 31;

* * * * *

§ 981.50 [Amended]

15. Amend § 981.50 by adding after the words ''into oil'', the words ''or sold as certified organic.''

16. Amend § 981.55 by designating the existing paragraph as (a) and adding a new paragraph (b) to read as follows:

§ 981.55 Interhandler transfers.

* * * * *

(b) When saleable and reserve percentages are in effect, any handler may transfer reserve withholding obligation to other handlers. Terms and conditions implementing this provision must be recommended by the Board and approved by the Secretary.

17. Section 981.60 is amended by revising paragraph (b) to read as follows:

§ 981.60 Determination of kernel weight.

* * * * *

(b) *Almonds for which settlement is made on unshelled weight.* The settlement weight for unshelled almonds shall be determined on the basis of representative samples of unshelled almonds reduced to shelled weight.

18. Section 981.61 is amended by revising the last sentence to read as follows:

§ 981.61 Redetermination of kernel weight.

* * * Weights used in such computations for various classifications of almonds shall be:

(a) For unshelled almonds, the kernelweight based on representative samples reduced to shelled weight;

(b) For shelled almonds, the net weight; and

(c) For shelled almonds used in production of almond products, the net weight of such almonds.

§ 981.62 [Removed]

19. Section 981.62 is removed.

§ 981.66 [Amended]

20. Section 981.66 is amended by removing paragraphs (b) and (d), redesignating paragraph (c) as paragraph (b), redesignating paragraph (e) as paragraph (c), redesignating paragraphs (f) and (g) as paragraphs (d) and (e), and by amending newly designated paragraph (c) by removing all references to the date ''September 1'' and adding in each place ''December 31''.

§ 981.67 [Amended]

21. Section 981.67 is amended by removing all references to the date ''September 1'' and adding in each place ''December 31''.

22. Section 981.70 is amended by revising the first sentence to read as follows:

§ 981.70 Records and verification.

Each handler shall keep records which will clearly show the details of his or her receipts of almonds, withholdings, sales, shipments, inventories, reserve disposition, advertising and promotion activities, as well as other pertinent information regarding his or her operation pursuant to the provisions of this part: *Provided,* that, such records shall be kept in the State of California. * * *

23. A new § 981.76 is added before the undesignated center heading ''Expenses and Assessments'' to read as follows:

§ 981.76 Handler List of Growers.

No later than December 31 of each crop year, each handler other than a cooperative handler (hereinafter, referred to as independent handler) governed by this subpart shall, upon request, submit to the Board a complete list of growers who have delivered almonds to such independent handler during that crop year.

24. Section 981.81 is amended by adding a new paragraph (e) to read as follows:

§ 981.81 Assessment.

* * * * *

(e) Any assessment not paid by a handler within a period of time prescribed by the Board may be subject to an interest or late payment charge or both. The period of time, rate of interest and late payment charge shall be as recommended by the Board and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed period of time shall be subject to an interest or late payment charge or both.

25. Section 981.90 is amended redesignating paragraph (b)(2) and (b)(3) as paragraphs (b)(3) and (b)(4) and by amending newly designated paragraph (b)(3) by removing the date ''June 1'' and adding in its place ''July 1'' and adding a new (b)(2), to read as follows:

§ 981.90 Effective time, suspension, or termination.

* * * * *

(b) * * *

(2) The Secretary shall conduct a referendum as soon as practical after the end of the fiscal year ending two years after implementation of this amendment, and at such time every fifth year thereafter, to ascertain whether continuation of the order is favored by growers who have been engaged in the production of almonds for market within the State of California during the current crop year.

* * * * *

§ 981.467 [Amended]

26. In § 981.467, paragraph (a) is amended by removing the date ''July 1'' and adding in its place ''August 1'' and by removing the words ''export or'' and ''or both,'' from the second sentence in paragraph (a).

§ 981.462 [Amended]

27. In § 981.472, paragraph (a) is amended by removing the dates ''July 1 to August 31'' and adding in its place ''August 1 to August 31.''

Dated: March 22, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–8205 Filed 4–5–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–10]

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–45/–50 series turbofan engines. This proposal would require an initial and repetitive on-wing visual inspection of the side links of the five-link forward mount assembly for cracks, and replacement of the side links and pylon attachment bolts, and inspection of the fail-safe bolt and platform lug, if the side links are found cracked. This proposal would also require a shop-level refurbishment of the side links as a terminating action to the on-wing inspection program. This proposal is prompted by four reports of cracked side links detected during routine engine shop visits. The actions specified by the proposed AD are intended to prevent a side link fracture, which could result in the failure of the second side link, or the forward engine mount pylon attachment bolts, and possible separation of the engine from the aircraft.

DATES: Comments must be received by May 8, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–10, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington MA.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–10.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the

Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–10, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

This proposed airworthiness directive (AD) is applicable to the General Electric Company (GE) CF6–45/–50 series turbofan engines. The Federal Aviation Administration (FAA) has received four reports of cracked side links of the five-link forward mount assembly. These cracks were detected during routine engine shop visits. Metallurgical analysis performed on the fractured side links indicate that the cracking is the result of stress corrosion. Stress corrosion cracking occurs when the protective coating is locally missing, allowing corrosive materials to come in contact with the base material of the side link. Preliminary analysis conducted with a simulated side link failure indicates that the second side link, or the pylon attachment bolts depending on the type of aircraft, may not be capable of withstanding the resulting loads in this configuration. A shop-level refurbishment procedure exists which enhances the durability of the side links' protective coating, therefore reducing the chance of cracks due to stress corrosion. This condition, if not corrected, could result in a side link fracture, which could result in the failure of the second side link or the forward engine mount pylon attachment bolts, and possible separation of the engine from the aircraft. The requirements of this AD have been reviewed by the Transport Airplane Directorate.

The FAA has reviewed and approved the technical contents of GE Aircraft Engines CF6–50 Service Bulletin No. 72–1092, dated November 18, 1994, that describes procedures for the initial and repetitive on-wing visual inspection and side link refurbishment.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require an initial and repetitive on-wing visual inspection of the side links of the five-link forward mount assembly for cracks, replacement of the side links and pylon attachment bolts, and inspection of the fail-safe bolt and platform lug, if side links are found cracked. This proposal would also require a shop-level refurbishment of the side links as a terminating action to the on-wing inspection program.

The FAA estimates that 220 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 7.5 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The FAA has estimated that only a small percentage of parts will actually require replacement as a result of this AD, and therefore, has determined the parts cost to be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $99,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 95–ANE–10.

Applicability: General Electric Company (GE) CF6–45/–50 series turbofan engines installed on, but not limited to, Airbus A300 series, Boeing 747 series, and McDonnell Douglas DC–10 series aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a side link fracture, which could result in failure of the second side link, or the forward engine mount pylon attachment bolts, and possible separation of the engine from the aircraft, accomplish the following:

(a) Inspect left-hand side links, Part Numbers (P/N) 9204M94P01, 9204M94P03, and 9346M99P01, and right-hand side links, P/N's 9204M94P02, 9204M94P04, and 9346M99P02, that have *not* had the side link refurbishment done in accordance with GE CF6–50 Task Numbered Shop Manual, GEK 50481, Chapter 72–23–11, including Temporary Revision No. 72–0821 and 72–0822, both dated November 1, 1994, as follows:

(1) For side links that have *not* been previously inspected in accordance with GE Aircraft Engines (GEAE) CF6–50 Service Bulletin (SB) No. 72–1092, dated November 18, 1994, inspect in accordance with paragraph 2.A of GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, prior to accumulating 350 cycles in service (CIS), or 750 hours time in service (TIS), after the effective date of this AD, whichever occurs earlier.

(2) For side links that have been previously inspected in accordance with GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, inspect in accordance with paragraph 2.A of GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, prior to accumulating 350 CIS, or 750 hours TIS since inspected in accordance with GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, whichever occurs earlier.

(3) Thereafter, inspect in accordance with paragraph 2.A of GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, at intervals

not to exceed 350 CIS, or 750 hours TIS since the last inspection, whichever occurs earlier.

(4) If side links are found cracked, replace the cracked side links and pylon attachment bolts with serviceable parts, and inspect the fail-safe bolt and platform lug in accordance with paragraph 2.B of GEAE CF6–50 SB No. 72–1092, dated November 18, 1994, prior to further flight.

(b) Refurbish the left-hand and right-hand side links identified in paragraph (a) of this AD at the next engine shop visit after the effective date of this AD in accordance with paragraph 2.C of GEAE CF6–50 SB No. 72–1092, dated November 18, 1994. Refurbishment of side links in accordance with this paragraph constitutes terminating action to the on-wing inspection requirements of paragraph (a) of this AD.

(c) For the purpose of this AD, an engine shop visit is defined as the induction of an engine into a shop for maintenance involving the separation of the fan and core modules.

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

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

Issued in Burlington, Massachusetts, on March 22, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–8444 Filed 4–3–95; 1:31 pm]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 95–NM–20–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 and Model DC–9–80 Series Airplanes; Model MD–88 Airplanes; and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; that currently requires visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly, if necessary. That AD was prompted by several occurrences of failure of the rudder pedals adjuster hub assembly due to broken detent lugs. This action would expand the applicability of the existing AD to include additional airplanes. The actions specified by the proposed AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

DATES: Comments must be received by May 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–20–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. LS1, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Augusto Coo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5225; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–20–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–20–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On December 9, 1992, the FAA issued AD 92–27–07, amendment 39–8441 (57 FR 60116, December 18, 1992), applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes. That AD requires visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly, if necessary. That action was prompted by several occurrences of failure of the rudder pedals adjuster hub assembly due to broken detent lugs. The actions required by that AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

Since the issuance of AD 92–27–07, the manufacturer has advised the FAA that several additional airplanes have been identified that are subject to the same type of cracking of the rudder pedals adjust hub assembly as addressed by that AD. These airplanes were inadvertently omitted from the effectivity listing of McDonnell Douglas DC–9 Alert Service Bulletin A27–235, Revision 1, dated February 3, 1992. AD 92–27–07 referenced that specific listing of airplanes as those subject to the requirements of that AD. In light of this, the FAA has determined that those additional airplanes are subject to the same unsafe condition addressed by AD 92–27–07.

The FAA has reviewed and approved McDonnell DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1994. This revised service bulletin is essentially identical to the original version, which was cited in AD 92–27–07 as the appropriate source of service

information, but revises the effectivity listing to include additional airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 92–27–07 to continue to require visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly and replacement of the assembly, if necessary. This proposal also would expand the applicability of the existing AD to include additional airplanes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 909 Model DC–9 and Model DC–9–80 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 561 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $180 per airplane.

The actions specified in this proposed rule previously were required by AD 92–27–07, which was applicable to approximately 373 airplanes. Based on the figures discussed above, the total cost impact of the current requirements of that AD on U.S. operators is estimated to be $67,140. In consideration of the compliance time and effective date of AD 92–27–07, the FAA assumes that operators of the 373 airplanes subject to that AD have already initiated the required actions. The proposed AD action would add no new costs associated with those airplanes.

This proposed action would be applicable to approximately 188 additional airplanes. Based on the figures discussed above, the total new costs to U.S. operators that would be imposed by this AD are estimated to be $33,840. This figure is based on assumptions that no operator of these additional airplanes has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8441 (57 FR 60116, December 18, 1992), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 95–NM–07–AD. Supersedes AD 92–27–07, Amendment 39–8441.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC 9–81 (MD–81), –82 (MD–82), –83 (MD–83), and –87 (MD–87) series airplanes; Model MD–88 airplanes; and Model C–9 (military) series airplanes; as listed in McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

(a) For airplanes listed in McDonnell Douglas Service Bulletin, Revision 1, dated February 3, 1993: Prior to the accumulation of 15,000 landings or within 270 days after January 22, 1993 (the effective date of AD 92–27–07, amendment 39–8441), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

(b) For airplanes listed in McDonnell Douglas Service Bulletin Revision 2, dated January 27, 1995, and not subject to paragraph (a) of this AD: Prior to the accumulation of 15,000 landings or within 270 days after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

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

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

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

Issued in Renton, Washington, on March 31, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8448 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 409

Request for Comments Concerning Rule Concerning Incandescent Lamp (Light Bulb) Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission''), as part of a systematic review of all its current regulations and guides, is requesting public comments about the overall costs and benefits, as well as the overall regulatory and economic impact, of the Rule Concerning Incandescent Lamp (Light Bulb) Industry (''the Light Bulb Rule'' or ''the Rule''). All interested persons are hereby given notice of the opportunity to submit written data, views and arguments concerning this review of the Rule.

DATES: Written comments will be accepted until June 6, 1995.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Avenue NW., Washington, DC 20580. Comments about the Light Bulb Rule should be identified as ''16 CFR Part 409—Comment.''

FOR FURTHER INFORMATION CONTACT: Terrence J. Boyle or Kent C. Howerton, Attorneys, Federal Trade Commission, Washington, DC 20580, (202) 326–3016 or (202) 326–3013.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review periodically all its rules and guides. The information obtained in such reviews assists the Commission in identifying rules and guides that warrant modification or rescission. The Commission decided to schedule its regulatory review of the Light Bulb Rule for 1995 when, pursuant to a directive of the Energy Policy Act of 1992, the Commission in April 1994 amended the Appliance Labeling Rule, 16 CFR Part 305, to add incandescent and fluorescent lamps as covered products. Although there are no contradictions between the two rules, the Commission scheduled review of the Light Bulb Rule for this year so it could consider whether to retain, revise or delete any of its provisions that might overlap the amended Appliance Labeling Rule.[1]

A. Background

The Rule was promulgated by the Commission in 1970.[2] The Light Bulb Rule makes it an unfair method of competition and an unfair and deceptive act or practice, in connection with the sale in commerce of general service incandescent electric lamps (light bulbs) to:

(1) Fail to disclose clearly and conspicuously on the containers of such lamps (or, if there are no containers, on the bulbs themselves) their average initial wattage, average initial lumens and average laboratory life;

(2) Fail to disclose clearly and conspicuously on the bulbs themselves their average initial wattage and design voltage;

(3) Represent or imply energy savings resulting from a lamp's life expectancy or light output unless in computing such savings the following factors are taken into account and disclosed clearly and conspicuously for the lamp being sold and also (unless the comparison is only of initial purchase price between lamps of identical wattage, lumens and laboratory life) the lamp with which the comparison is being made: lamp cost, electrical power cost, labor cost for lamp replacement (if any), actual light output in average initial lumens, and average laboratory life in hours;

(4) Represent or imply that a lamp will give more light, maintain brightness longer or furnish longer life without clearly and conspicuously disclosing, for both the lamp being sold and the lamp with which the comparison is being made the average initial wattage, the laboratory life in hours, the average initial light output in lumens, and (if there is a claim the lamp maintains brightness longer) the light output in lumens at 70% of the lamp's rated life.

Four notes at the end of the Rule define terms used in the Rule or require certain procedures or tests to be used in making disclosures required by the Rule. Specifically, these notes: (1) State how manufacturers are to determine the

[1] The two Rules both cover A-type incandescent lamps and require on their labels disclosure of certain performance ratings and other information. Specifically, both rules require disclosures of light output, wattage and laboratory life ratings. The Appliance Labeling Rule specifies that these disclosures must appear together, in that order and worded in a certain way (*i.e.*, as ''Light Output: _____ Lumens; Energy Used: _____ Watts; Life: _____ Hours'') on the label's principal display panel. The Light Bulb Rule, however, does not specify any order or wording for its required rating disclosures, but simply specifies that the three ratings be disclosed in terms of lumens, watts and hours and appear together on at least two side panels of the label and, additionally, on any other panel on which a lumen, wattage or hours of life claim is made.

The Appliance Labeling Rule requires the lumens, watts and hours disclosures to appear with equal conspicuousness, but does not specify any particular type style or size. The Light Bulb Rule specifies that the lumens and hours disclosures must both be in a medium- or bold-face type that is at least two-fifths the height of the watts disclosure on the same panel or three-sixteenths of an inch, whichever is larger.

The Appliance Labeling Rule requires that energy saving or operating cost claims take into consideration, and clearly and conspicuously disclose in close proximity to the claims, all the assumptions upon which the claims are based, including, *e.g.*, purchase price, unit cost of electricity, hours of use, patterns of use. The Light Bulb Rule, because it covers not only energy saving and operating cost claims, but also all comparative lamp life, light output and lamp cost claims, specifies additional factors (*e.g.*, labor costs for replacement, light output, life expectancy) that, depending on the particular claim being made, must be taken into consideration and clearly and conspicuously disclosed.

[2] 35 FR 11784 (July 23, 1970).

wattage, lumen and life rating disclosures required by the Rule, (2) require for the year 1970–71 all lamp labels to explain the meaning of the word ''lumen'' whenever it is used, (3) define the term ''general service incandescent lamp'' to mean all A-type bulbs and all other incandescent bulbs substantially the same as A-type bulbs, and (4) define the meaning of the Rule's term ''clear and conspicuous'' with respect to the minimum type sizes necessary for required disclosures and the minimum number of times the required disclosures must be made on lamps and/or their labels.

B. Issues for Comment

At this time, the Commission solicits written public comments on the following questions:

1. Is there a continuing need for the Rule?

a. What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

b. Has the Rule imposed costs on purchasers?

c. Does the light Bulb Rule provide any benefits not provided by the provisions of the Appliance Labeling Rule relating to lamps?

2. What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?

a. How would these changes affect the costs the Rule imposes on firms subject to its requirements?

3. What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?

a. Has the Rule provided benefits to such firms?

4. What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?

a. How would these changes affect the benefits provided by the Rule?

5. Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

6. Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

7. Should the Commission retain, or modify in any way, the particular provisions of the existing Rule that define the term ''clear and conspicuous'' to mean certain minimum sizes for required disclosures and certain minimum numbers of times that those required disclosures must be made on lamps and/or their labels?

8. Should the Commission retain, or modify in any way, the particular provisions of the existing Rule that require all comparative energy consumption or operating cost claims, all comparative light output claims, and all comparative life expectancy claims to be accompanied by clear and conspicuous disclosures of particular comparison data for both the lamps being sold and the lamps with which the comparison is being made?

9. Should the Commission retain, or modify in any way, those provisions of the existing Rule that duplicate or overlap provisions in the Appliance Labeling Rule pertaining to lamps?

10. The Light Bulb Rule requires wattage, light output and life expectancy ratings to be disclosed at the bulbs' design voltage whereas the Appliance Labeling Rule requires the disclosures at 120 Volts regardless of the bulbs' design voltage.

a. For general service incandescent bulbs with design voltage other than 120 Volts, should the Commission continue to require ratings disclosures at both 120 Volts and design voltage?

b. What percentage of the total quantity of general service incandescent lamps sold in this country is comprised of lamps with design voltages other than 120 Volts?

(1) Describe how, for such lamps, the light output, wattage and expected life ratings differ when the lamp is used at 120 Volts from when used at the design voltage.

(2) In what areas of the country are lamps with design voltages other than 120 Volts routinely sold and in what proportions compared with lamps with design voltages of 120 Volts?

(3) To whom are lamps with design voltages other than 120 Volts sold and for what uses?

(4) Do purchasers of such lamps also routinely purchase lamps with design voltages of 120 Volts and, if so, what are the percentages of their lamp purchases for each category?

(5) How might the market for lamps with design voltages other than 120 Volts be expected to change in the future?

c. At what line voltages is electricity delivered in the United States? What areas receive electricity at voltages other than 120 Volts? Describe. Are there any private electricity delivery systems (*e.g.*, industrial plants), that provide electricity internally at voltages other than 120 volts? Describe.

List of Subjects in 16 CFR Part 409

Advertising, Consumer protection, Energy conservation, Household appliances, Labeling, Lamp products, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–8472 Filed 4–5–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 460

Trade Regulation Rule; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Proposed rule and request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is requesting public comments about the overall costs and benefits and the continuing need for its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (the ''R-value Rule'' or ''Rule''), 16 CFR part 460, as well as whether the Rule, if retained, should be amended to include new test procedures or specific requirements for new products, as a part of its systematic review of all current Commission regulations and guides. In addition, the Commission seeks comments on whether to adopt a non-substantive amendment to the Rule that would permit the use of an additional test procedure to determine the R-values of home insulation products. All interested persons are hereby given notice of the opportunity to submit written data, views and arguments concerning the Commission's review of the R-value Rule and the proposed non-substantive amendment.

DATES: Written comments will be accepted until June 6, 1995.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580. Comments about the R-value Rule should be identified as ''R-value Rule, 16 CFR part 460—Comment.''

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Federal Trade Commission, Room S–4631, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580, telephone (202) 326–3013, FAX (202) 326–3259.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission requests public comments about the overall costs and benefits of the R-value Rule, and its overall regulatory and economic impact, as well as whether the Rule should be updated to included new test procedures or specific requirements for

new products, as a part of it systematic review of all current Commission regulations and guides. In addition, the Commission proposes adopting a non-substantive amendment to the Rule that would allow use of an additional test procedure to determine the R-value of home insulation products. The Commission also solicits comments concerning the proposed non-substantive amendment.

II. Background

The Commission promulgated the R-value Rule under Section 18 of the FTC Act in 1979. The Rule became effective on September 30, 1980. Among other things, the Rule requires that manufacturers disclosed the R-value (''thermal performance'') of each one insulation product, based on tests conducted according to one of four specified American Society of Testing and Materials (''ASTM'') test procedures.[1] When the Commission promulgated the Rule, it determined that ASTM R-value test procedures C–177, C–236, and C–518 were highly accurate and reproducible steady-state methods for determining the R-values of home insulation products. 44 FR 50218, at 50226 note 189. In the original Rule, the Commission stated that it also would accept the use of C–976 once it was adopted as an ASTM test procedure. ASTM adopted C–976 in 1982. The Rule, therefore, now officially recognizes tests using any of these four test procedures.

The Commission conducted a review of the rule under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, in 1984. During the review, the Commission solicited comments on whether the Rule had had a significant economic impact (costs and benefits) on a substantial number of small businesses, whether there was a continuing need for the Rule, and what changes, if any, should be made to the Rule to minimize the economic effect on small entities. 49 FR 22104 (1984). Based upon the comments submitted, the Commission determined that it had no basis to conclude that the R-value Rule had a significant economic impact upon a substantial number of small entities. The Commission determined not to amend the Rule following the Regulatory Flexibility Act review. 50 FR 13246, at 13247 (1985).

Since the Rule was promulgated, the Commission has brought 12 actions to enforce its provisions.[2] The Commission also has granted three partial or conditional exemptions relating to specific provisions, issued one Advisory Opinion allowing use of an alternative testing procedure, and adopted three non-substantive amendments (one that allowed manufactures to add to their insulation fact sheets specific information required by other government agencies; a second, in response to an industry request, that adopted a revised settled density test procedure for loose-fill cellulose insulation; and a third that adopted revised versions of the ASTM R-value test procedures).

III. Regulatory Review Program

The Commission has determined, as part of its oversight responsibilities, to review all current Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or recision.

At this time, therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the R-value Rule, possible conflict between the Rule and state, local or other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. No Commission determination on the need for or the substance of the Rule should be inferred from this request for comments.

IV. Non-Substantive Amendment

The Commission has received a petition from Mr. Ronald S. Graves, Research Staff Member, Materials Analysis Group, at Martin Marietta Energy Systems, Inc. (''Petition'').[3] The petition requests that the Commission include an additional (fifth) ASTM R-value test procedure (' ASTM Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Thin-Heater Apparatus,'' ASTM C–1114–92), as an approved test method for compliance with Section 460.5(a) of the R-value Rule.[4] The test method is under the jurisdiction of ASTM Committee C–16 on Thermal Measurements (which is the Committee responsible for the other R-value test procedures required by the R-value Rule), and is the direct responsibility of Subcommittee C16.30 on Thermal Measurements. Mr. Graves is the Chairman of the Thin Heater Task Group within C16.30 that meets semiannually to maintain and keep C–1114 current.

According to the Petition, tests conducted in 1983 and 1990 on two standard reference materials (''SRMs'') obtained from the National Institute of Standards and Technology show apparent thermal conductivity values for the SRMs to be within the most probable uncertainty of ±1.2 percent between 25 °C (77 °F) and 50 °C (132 °F). The Petition states that results with single-sided heat flow up or down and double-sided heat flow agreed to ±0.2 percent. It asserts that these test results at ORNL[5] demonstrate that ASTM C–1114–92 is an appropriate test procedure for obtaining accurate apparent thermal conductivity values on insulation products.

The accuracy of the ASTM C–1114–92 test procedure, therefore, appears to rate favorably compared to the accuracy of the other ASTM R-value test procedures the Commission has adopted under the R-value Rule. Evidence in the original rulemaking proceeding demonstrated that, if properly performed: (1) Measurements under C–177 could achieve results within ±2 percent of the specimen's actual thermal value, and a precision of one percent or better is normally attained; (2) measurements under C–518 should come within at least ±5 percent of absolute accuracy, with a reproducibility rate of ±2 percent; and (3) measurements under C–236 can measure thermal resistance values within ±2 percent of absolute accuracy. See 44 FR 50218, at 50226 note 189.

Thus, the Commission is considering adopting a non-substantive amendment to § 460.5 of the Rule, 16 CFR 460.5(a), to include ASTM C–1114–92 as an optional, but not required, test procedure for determining the R-values of home insulation products. Because the amendment would not impose any new obligations upon parties covered by the Rule (but merely would recognize the use of an additional, optional, R-value test procedure), and because the apparent accuracy of the test procedure

[1] The test procedures are ASTM C–177 and ASTM C–518 (which use hot and cold ''plates'' to determine R-values for homogeneous ''mass'' insulation products, like fiberglass batts and loose-fill cellulose), and ASTM C–236 and ASTM C–976 (which use ''hot boxes'' to determine R-values for heterogeneous insulation systems, like multi-panel aluminum foil products and insulation systems).

[2] The Commission has brought seven civil penalty actions against manufacturers, one against a testing laboratory, and three against retailers. It also has brought one consumer redress action against a professional installer.

[3] Martin Marietta Energy Systems, Inc., operates Oak Ridge National Laboratory (''ORNL'') as a contractor for the U.S. Department of Energy.

[4] The Petition, plus attachments, have been placed on the public record of the R-value Rule and can be inspected at the Commission's Public Reference Room, room 130, Sixth and Pennsylvania Ave., NW, Washington, DC.

[5] The testing apparatus used at ORNL is referred to as the Unguarded Thin Heater Apparatus (''UTHA'').

compares favorably to the test procedures already required by the Rule (so the amendment likely would not lessen consumer protection),[6] the proposed amendment appears to be non-substantive under Section 18(d)(2)(B) of the FTC Act, 15 U.S.C. 57a(d)(2)(B). Because the amendment appears to be non-substantive, the Commission believes that it does not need to solicit public comment or follow the lengthy rulemaking proceedings that would be required for a substantive amendment to the rule. On the other hand, because the Commission is soliciting comments as part of its regulatory review of the Rule, the Commission has determined in its discretion to solicit comments on the proposed amendment.

IV. Solicitation of Comments

A. Regulatory Review

As part of its on-going regulatory review program for all its rules and guides, the Commission solicits public comments on the following questions:

(1) Is there a continuing need for the R-value Rule?
  (a) What benefits has the Rule provided to purchasers of the products or services affected by the Rule?
  (b) Has the Rule imposed costs on purchasers?
(2) What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?
  (a) How would these changes affect the costs the Rule imposes on firms subject to its requirements?
(3) What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?
  (a) Has the Rule provided benefits to such firms?
(4) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?
  (a) How would these changes affect the benefits provided by the Rule?
(5) Does the Rule overlap or conflict with other federal, state, or local laws or regulations?
(6) Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

In addition to the questions raised above, the Commission solicits comments on the following issues. First, should the Rule be revised to require the use of different test procedures or specifications than those currently specified for certain types of products? In addition to specifying R-value test procedures, the Rule currently specifies procedures that must be followed in preparing specimens of certain types and forms of home insulation for testing under the R-value test procedures.[7] The Rule also contains specific requirements for determining the R-values of reflective home insulation products (which perform as thermal insulation only when installed as a system with one or more air spaces).[8] The Commission thus solicits comments concerning whether the Rule should be amended to specify different or additional test procedures or specifications for insulation products specifically addressed in the Rule.

Second, are the insulation products for which the Rule does not sufficiently address product-specific issues relating to testing or preparation of test specimens? As noted, in some instances the Rule provides particular procedures to be followed in preparing specimens for R-value testing where the Commission found there was post-installation effects (e.g., settling of loose-fill insulation products, aging of certain cellular plastics insulation products) that need to be considered. During the period since the Commission promulgated the Rule, additional home insulation products designed to slow down heat flow have been developed and automatically have been covered by the Rule. However, because these products did not exist when the Rule was issued, the Rule currently contains no specific test specimen preparation provisions for these new products. The Commission, therefore, solicits comments on whether the Rule should be revised to specify the manner in which specimens of new products should be prepared for R-value testing to ensure that R-values and related information are accurate and based on uniform standards.

B. Non-Substantive Amendment

The Commission solicits comments concerning the Petition and the Commission's proposal to adopt a non-substantive amendment to the Rule that would recognize ASTM C–1114–92 as an acceptable test method for determining the R-value of home insulation products under Section 460.5 of the R-value Rule, 16 CFR 460.5. Interested parties are invited to submit any data or other information relevant to whether the Commission should adopt the proposed amendment.

List of Subjects in 16 CFR Part 460

Advertising, Incorporation by reference, Insulation, Labeling, Trade practices.

Authority: 15 U.S.C. 41 *et seq.*

By the direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–8471 Filed 4–5–95; 8:45 am]

BILLING CODE 6750–01–M

[6] The test procedure already is recognized by the industry as an accurate and appropriate test procedure, having been adopted as an official ASTM procedure after going through ASTM's consensus approval process.

[7] For loose-fill cellulose insulation, the R-value tests must be conducted on test specimens prepared at the product's long-term, or settled, density, determined according to paragraph 8 of ASTM C–739–88 (''Standard Specification for Cellulosic Fiber (Wood-Base) Loose-Fill Thermal Insulation,'' approved Oct. 25, 1988, published April 1989). For loose-fill mineral wool insulation, the R-value tests must be conducted on test specimens that fully reflect the effect of settling on the product's R-value. For polyurethane, polyisocyanurate, and extruded polystyrene insulation, the R-value tests must be conducted on test specimens that fully reflect the effect of aging on the product's R-value, for example, specimens aged according to the procedure in paragraph 4.6.4 of General Services Administration (GSA) Specification HH–I–530A, or another reliable procedure.

[8] For single sheet reflective foil home insulations, the Rule allows manufacturers to determine R-value according to two options: By conducting R-value tests according to ASTM C–236–87 or ASTM C–976–82; or by measuring the emissivity (reflectivity) of the product according to ASTM E–408 (or another test method that provides comparable results), and then determining the R-value for the measured emissivity level, and the air space and direction of heat flow for the intended application, using the tables in the most recent edition of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers' (ASHRAE) handbook (using the R-value shown for 50 °F, with a temperature differential of 30 °F).

DEPARTMENT OF THE TREASURY

27 CFR Parts 55, 72, 178, and 179

[Notice No. 807]

RIN 1512–AB35

Implementation of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (94F–022P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rulemaking cross referenced to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations regarding the implementation of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity

ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, and possession of firearms by persons subject to restraining orders. The temporary regulations also serve as the text of this notice of proposed rulemaking for final regulations.

DATES: Written comments must be received on or before July 5, 1995.

ADDRESSES: Send written comments to: Chief, Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; Attn.: Notice No. 807.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined in E.O. 12866, because the economic effects flow directly from the underlying statute and not from this temporary rule. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Paperwork Reduction Act

The collections of information contained in this notice have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project 1512–0526, Attention: Desk officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Information Programs Branch, Room 3450, Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

The collections of information in this proposed regulation are in 27 CFR 178.40(c), 178.40a(c), 178.129(e), 178.132, and 178.133. This information is required by ATF to ensure compliance with the provisions of Pub. L. 103–322 (108 Stat. 1796). The likely respondents and recordkeepers are individuals and businesses. Estimated total annual reporting and recordkeeping burden: 2.52 hours. Estimated number of respondents and recordkeepers: 2,206,555. Total annual hours requested: 699,863. Additional collections of information contained in this proposed regulation which have approved control numbers are in §§ 178.39a (OMB No. 1512–0524), 178.47 (OMB Nos. 1512–0522 and 1512–0523), 178.52 (OMB No. 1512–0525), and 178.119 (OMB Nos. 1512–0017, 1512–0018, and 1512–0019).

Public Participation

ATF requests comments on the temporary regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

The temporary regulations in this issue of the **Federal Register** amend the regulations in 27 CFR Parts 55, 72, 178, and 179. For the text of the temporary regulations, see T.D. ATF–363 published in the Rules and Regulations section of this issue of the **Federal Register**.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Signed: February 10,1995.

Daniel R. Black,

Acting Director.

Approved: February 27, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–8234 Filed 4–3–95; 4:18 pm]

BILLING CODE 4810–31–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 902, 926, 934, and 950

Alaska, Montana, North Dakota, and Wyoming Regulatory Programs

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

ACTION: Announcement of public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in Alaska, Montana, North Dakota, and Wyoming underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments to SMCRA and the implementing Federal regulations require that underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures. These provisions also require such operations to promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining.

OSM must decide if the Alaska, Montana, North Dakota, and Wyoming regulatory programs (hereinafter referred to as the ''Alaska, Montana, North Dakota, and Wyoming programs'') currently have adequate counterpart provisions in place to promptly implement the recent amendments to SMCRA and the Federal regulations. After consultation with Alaska, Montana, North Dakota, and Wyoming and consideration of public comments,

OSM will decide whether initial enforcement in Alaska, Montana, North Dakota, and Wyoming will be accomplished through the State program amendment process or by State enforcement, by interim direct OSM enforcement, or by joint State and OSM enforcement.

DATES: Written comments must be received by 4:00 p.m., m.d.t. on May 8, 1995. If requested, OSM will hold a public hearing on May 1, 1995, concerning how the underground coal mine subsistence control and water replacement provisions of SMCRA and the implementing Federal regulations, or the counterpart State provisions, should be implemented in Alaska, Montana, North Dakota, and Wyoming. Requests to speak at the hearing must be received by 4:00 p.m., m.d.t. on April 21, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Guy Padgett, Director, Casper Field Office at the address listed below.

Copies of the applicable parts of the Alaska, Montana, North Dakota, and Wyoming programs, SMCRA, the implementing Federal regulations, information provided by Alaska, Montana, North Dakota, and Wyoming concerning their authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays.

Guy Padgett, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, 100 E ''B'' Street, Room 2128, Casper, Wyoming 82601, Telephone: (307) 261–5776.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Director, Casper Field Office, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Public Law 102–486, 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of the damaged structures as a result of subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt replacement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with these provisions for operations conducted after October 24, 1992.

B. The Federal Regulations Implementing the Energy Policy Act

On March 31, 1995, OSM promulgated regulations at 30 CFR Part 817 to implement the performance standards of sections 720(a) (1) and (2) of SMCRA (60 FR 16722–16751).

30 CFR 817.121(c)(2) requires in part that:

> The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. * * * The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

30 CFR 817.41(j) requires in part that:

> The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.

30 CFR 843.25 provides that by July 31, 1995, OSM will decide, in consultation with each State regulatory authority with an approved program, how enforcement of the new requirements will be accomplished. As discussed below, enforcement may be accomplished through the 30 CFR Part 732 State program amendment process, or by State, OSM, or joint State and OSM enforcement of the requirements. OSM will decide which of the following enforcement approaches to pursue.

(1) *State program amendment process.* If the State's promulgation of regulatory provisions that are counterpart to 30 CFR 817.41(j) and 817.121(c)(2) is imminent, the number and extent of underground mines that have operated in the State since October 24, 1992, is low, the number of complaints in the State concerning section 720 of SMCRA is low, or the State's investigation of subsidence-related complaints has been thorough and complete so as to assure prompt remedial action, then OSM could decide not to directly enforce the Federal provisions in the State. In this situation, the State would enforce its State statutory and regulatory provisions once it has amended its program to be in accordance with the revised SMCRA and to be consistent with the revised Federal regulations. This program revision process, which is addressed in the Federal regulations at 30 CFR part 732, is commonly referred to as the State program amendment process.

(2) *State enforcement.* If the State has statutory or regulatory provisions in place that correspond to all of the requirements of the above-described Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its statutory and regulatory provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations.

(3) *Interim direct OSM enforcement.* If the State does not have any statutory or regulatory provisions in place that correspond to the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2), then OSM would enforce in their entirety 30 CFR 817.41(j) and 817.121(c)(2) for all underground mining activities conducted in the State after October 24, 1992.

(4) *State and OSM enforcement.* If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations. OSM would then enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are not covered by the State provisions for these operations.

If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and if the State's authority to enforce its provisions applies to operations conducted on or after some date later than October 24, 1992, the State would

enforce its provisions for these operations on and after the provisions' effective date. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992; and OSM would enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are included in the State program but are not enforceable back to October 24, 1992, for the time period from October 24, 1992, until the effective date of the State's rules.

As described in item numbers (3) and (4) above, OSM would directly enforce in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR Part 732, the State's counterparts to the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) or 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(c)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permittee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j), 817.121(c) (2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Alaska

By letter to Alaska dated December 15, 1994, OSM requested information from Alaska that would help OSM decide which approach to take in Alaska to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Alaska program provisions (Administrative Record No. AK–F–01). By letter dated January 27, 1995, Alaska responded to OSM's request (Administrative Record No. AK–F–02).

Alaska stated that no underground coal mines were operating in Alaska after October 24, 1992.

Alaska stated that its program does not contain or authorize enforcement of the structural damage repair and water supply replacement requirements of section 720(a) of SMCRA. To be no less stringent than SMCRA, Alaska indicated that it would have to amend section 27.21.220 of the Alaska Surface Coal Mining Control and Reclamation Act to add subsection (c) to require prompt repair or compensation for material damage resulting subsidence, and prompt replacement of water supplies affected by underground coal mining operations. It indicated that it realistically believed that this statutory change could be made in the spring of 1996.

Alaska concluded that it did not believe that it has the statutory authority to investigate complaints of structural damage or water loss caused by under coal mining operations after October 24, 1992.

D. Enforcement in Montana

By letter to Montana dated December 15, 1994, OSM requested information from Montana that would help OSM decide which approach to take in Montana to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Montana program provisions (Administrative Record No. MT–13–01). By letter dated March 6, 1995, Montana responded to OSM's request (Administrative Record No. MT–13–02).

Montana stated that one underground coal mines was active in Montana after October 24, 1992. Montana stated that its program does not fully authorize enforcement of the structural repair and water replacement requirements of section 720(a) of SMCRA and the implementing Federal regulations.

Specifically, Montana indicated that (1) Administrative Rules of Montana 26.4.911(5), which address compensation for structural damage resulting from subsidence, are not clearly authorized by the subsidence prevention provisions of section 82–4–231(10)(f) of the Montana Strip and Underground Mine Reclamation Act (MSUMRA); (2) section 82–4–253(2) of MSUMRA excepts water derived from ''a subterranean stream having a permanent, distinct, and known channel'' from the requirement for underground coal miners to promptly replace drinking, domestic, or residential water supplies affected underground coal mining, and (3) the procedural requirements of section 82–4–253(2) of MSUMRA would not, in Montana's opinion, result in ''prompt'' replacement of water supplies adversely affected by underground coal mining.

Montana has stated that statutory changes to address these issues will need to be sought in the next legislative session in January 1997, and subsequent rule changes would follow adoption of statute changes. OSM has determined that Montana has not received or investigated any citizen complaints alleging subsidence-related structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992.

E. Enforcement in North Dakota

By letter to North Dakota dated December 15, 1994, OSM requested information from North Dakota that would help OSM decide which approach to take in North Dakota to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart North Dakota program provisions (Administrative Record No. ND–W–01). By letter dated December 21, 1994, North Dakota responded to OSM's request (Administrative Record No. ND–W–02).

North Dakota stated that no underground coal mines were operating in North Dakota after October 24, 1992. North Dakota's regulatory program does not allow underground mining at the present time. In the event that North Dakota received an application for underground mining, North Dakota would have to revise its program to incorporate counterpart provisions to section 720(a) of SMCRA and the implementing Federal regulations.

F. Enforcement in Wyoming

By letter to Wyoming dated December 15, 1994, OSM requested information from Wyoming that would help OSM decide which approach to take in Wyoming to implement the requirements of section 720(a) of SMCRA, the implementing Federal

regulations, and/or the counterpart Wyoming program provisions (Administrative Record No. WY–29–01). By letter dated January 19, 1995, Wyoming responded to OSM's request (Administrative Record No. WY–29–02).

Wyoming stated that three underground coal mines were active in Wyoming after October 24, 1992. Wyoming indicated that existing State program provision at Wyoming Statutes 35–11–102 (policy and purpose); 35–11–406 (permit applications); 35–11–416 (surface owner protection); and 35–11–428 (in situ mining permit applications); and Wyoming Coal Rules and Regulations at chapter VI, section 2 (general environmental performance standards); chapter VII, sections 1 through 4 (underground mining permit applications, environmental protection performance standards, public notice, and surface owner protection); and chapter XVIII, section 3 (in situ mining permit applications) are adequate State counterparts to section 720(a) of SMCRA and the implementing Federal regulations.

Wyoming explained that it will enforce these State program provisions in accordance with the enforcement provisions that were in effect October 24, 1992. Wyoming has investigated one citizen complaint alleging subsidence-caused structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992. This complaint concerned subsidence damage to a reclaimed reservoir. This is a unique situation in that the alleged damage occurred within the permit area of an adjacent surface coal mine. The two mine operators have mutually agreed upon corrective measures and have not requested the State of Wyoming to intervene.

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Alaska, Montana, North Dakota, and Wyoming to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

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

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on April 21, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

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

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

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

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Alaska, Montana, North Dakota, and Wyoming should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

Dated: March 31, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–8467 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Parts 904, 918, 936, and 943

Arkansas, Louisiana, Oklahoma, and Texas Regulatory Programs

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

ACTION: Announcement of public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in Arkansas, Louisiana, Oklahoma, and Texas underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments to SMCRA and the implementing Federal regulations, require that underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures. These provisions also require such operations to promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining.

OSM must decide if the Arkansas, Louisiana, Oklahoma, and Texas regulatory programs (hereinafter referred to as the ''States programs'') currently have adequate counterpart provisions in place to promptly implement the recent amendments to SMCRA and the Federal regulations. After consultation with Arkansas, Louisiana, Oklahoma, and Texas and consideration of public comments, OSM will decide whether initial enforcement in Arkansas, Louisiana, Oklahoma, and Texas will be accomplished through the State program amendment process or by State enforcement, by interim direct OSM enforcement, or by joint State and OSM enforcement.

DATES: Written comments must be received by 4 p.m., c.d.t. on May 8, 1995. If requested, OSM will hold a public hearing on May 1, 1995, concerning how the underground coal mine subsidence control and water replacement provisions of SMCRA and the implementing Federal regulations, or the counterpart State provisions, should be implemented in Arkansas, Louisiana, Oklahoma, and Texas. Requests to speak at the hearing must be received by 4 p.m., c.d.t. on April 21, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to James H. Moncrief, Director, Tulsa Field Office at the address listed below.

Copies of the applicable parts of the State programs, SMCRA, the implementing Federal regulations, information provided by Arkansas, Louisiana, Oklahoma, and Texas concerning their authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135–6547, Telephone: (918) 581–5430.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of the damaged structures as a result of subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt replacement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with these provisions for operations conducted after October 24, 1992.

B. The Federal Regulations Implementing the Energy Policy Act

On March 31, 1995, OSM promulgated regulations at 30 CFR part 817 to implement the performance standards of sections 720(a) (1) and (2) of SMCRA (60 FR 16722–16751).

30 CFR 817.121(c)(2) requires in part that:

> The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. * * * The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

30 CFR 817.41(j) requires in part that:

> The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.

30 CFR 843.25 provides that by July 31, 1995, OSM will decide, in consultation with each State regulatory authority with an approved program, how enforcement of the new requirements will be accomplished. As discussed below, enforcement may be accomplished through the 30 CFR part 732 State program amendment process, or by State, OSM, or joint State and OSM enforcement of the requirements. OSM will decide which of the following enforcement approaches to pursue.

(1) *State program amendment process.* If the State's promulgation of regulatory provisions that are counterpart to 30 CFR 817.41(j) and 817.121(c)(2) is imminent, the number and extent of underground mines that have operated in the State since October 24, 1992, is low, the number of complaints in the State concerning section 720 of SMCRA is low, or the State's investigation of subsidence-related complaints has been thorough and complete so as to assure prompt remedial action, then OSM could decide not to directly enforce the Federal provisions in the State. In this situation, the State would enforce its State statutory and regulatory provisions once it has amended its program to be in accordance with the revised SMCRA and to be consistent with the revised Federal regulations. This program revision process, which is addressed in the Federal regulations at 30 CFR part 732, is commonly referred to as the State program amendment process.

(2) *State enforcement.* If the State has statutory or regulatory provisions in place that correspond to all of the requirements of the above-described Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its statutory and regulatory provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations.

(3) *Interim direct OSM enforcement.* If the State does not have any statutory or regulatory provisions in place that correspond to the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2), then OSM would enforce in their entirety 30 CFR 817.41(j) and 817.121(c)(2) for all underground mining activities conducted in the State after October 24, 1992.

(4) *State and OSM enforcement.* If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations. OSM would then enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are not covered by the State provisions for these operations.

If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and if the State's authority to enforce its provisions applies to operations conducted on or after some date later than October 24, 1992, the State would enforce its provisions for these operations on and after the provisions' effective date. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992; and OSM would enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are included in the State program but are not enforceable back to October 24, 1992, for the time period from October 24, 1992, until the effective date of the State's rules.

As described in item numbers (3) and (4) above, OSM would directly enforce in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR Part 732, the State's counterparts to

the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) or 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(C)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permittee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j), 817.121(c)(2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Arkansas

By letter to Arkansas dated December 15, 1994, OSM requested information from Arkansas that would help OSM decide which approach to take in Arkansas to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Arkansas program provisions (Administrative Record No. AR–542). By letter dated January 30, 1995, Arkansas responded to OSM's request (Administrative Record No. AR–453).

Arkansas stated that one underground coal mine was active in Arkansas after October 24, 1992. Arkansas indicated that its existing State law and its regulations at Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) Sections 779.17, 780.21(e), 783.17, 784.14, 784.20(c) 816.54, and 816.124–U(b) and (c) are adequate State counterparts to section 720(a) of SMCRA and the implementing Federal regulations. Arkansas did not indicate when the existing State counterpart provisions went into effect. However, Arkansas did indicate that it had not received any citizen complaints alleging subsidence-caused structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992.

D. Enforcement in Louisiana

By letter to Louisiana dated January 23, 1995, OSM requested information from Louisiana that would help OSM decide which approach to take in Louisiana to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Louisiana program provisions (Administrative Record No. LA–352). By letter dated February 7, 1995, Louisiana responded to OSM's request (Administrative Record No. LA–353).

Louisiana stated that no underground coal mines were operating in Louisiana after October 24, 1992. Louisiana's regulatory program does not allow underground mining at the present time. In the event that Louisiana received an application for underground mining, Louisiana would have to revise its program to incorporate counterpart provisions to section 720(a) of SMCRA and the implementing Federal regulations.

E. Enforcement in Oklahoma

By letter to Oklahoma dated January 23, 1995, OSM requested information from Oklahoma that would help OSM decide which approach to take in Oklahoma to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or counterpart Oklahoma program provisions (Administrative Record No. OK–965). By letter dated February 8, 1995, Oklahoma responded to OSM's request (Administrative Record No. OK–966).

Oklahoma stated that one underground coal mine was active after October 24, 1992, and one underground mine was constructing surface facilities as of February 8, 1995.

Oklahoma indicated that the State regulation at OAC 460:20–45–47(c) (previously codified as section 817.121(c)) addresses repair or compensation of subsidence-related material damage to structures and replacement of water supplies contaminated or diminished due to subsidence.

However, Oklahoma indicated that this regulation ''is not as clearly written'' as the new Federal regulations and that it includes ''vague statements * * * regarding structures, facilities, and any drinking, domestic or residential water supplies'' that will be clarified once the regulation is revised in accordance with the new Federal regulations.

Oklahoma did not indicate when the State counterpart provisions went into effect. However, Oklahoma stated that it had investigated one citizen complaint alleging subsidence-related damage for underground mining operations conducted after October 24, 1992, and it issued a violation notice as a result of the complaint. OSM has determined that the citizen complaint did not involve structural damage or water supply loss or contamination.

F. Enforcement in Texas

By letter to Texas dated January 23, 1995, OSM requested information from Texas that would help OSM decide which approach to take in Texas to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Texas program provisions (Administrative Record No. TX–587). By letter dated January 26, 1995, Texas responded to OSM's request (Administrative Record No. TX–588).

Texas stated that no underground coal mines were operating in Texas after October 24, 1992.

Texas stated that the Texas Surface Coal Mining and Reclamation Act currently has no counterpart to section 720 of SMCRA, and its regulations at section 817.564, regarding repair and compensation for damages occurring to buildings and other structures, and at section 817.521, regarding replacement of water supplies, have no direct counterparts to OSM's proposed regulations at 30 CFR 817.121(c) and 817.41(k).

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Arkansas, Louisiana, Oklahoma, and Texas to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

Written comments should be specific, pertain only to the issues addressed in this notice, and include explanations in

support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in OSM's final decision or included in the Administrative Record.

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on April 21, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

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

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

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

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Arkansas, Louisiana, Oklahoma, and Texas should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

Dated: March 31, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–8469 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Parts 906, 931, and 944

Colorado, New Mexico, and Utah Regulatory Programs

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

ACTION: Annoucement of public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in Colorado, New Mexico, and Utah underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments of SMCRA and the implementing Federal regulations require that underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures. These provisions also require such operations to promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining.

OSM must decide if the Colorado, New Mexico, and Utah regulatory programs (herein after referred to as the ''State programs'' currently have adequate counterpart provisions in place to promptly implement the recent amendments to SMCRA and the Federal regulations. After consultation with Colorado, New Mexico, and Utah and consideration of public comments, OSM will decide whether initial enforcement in each of these States will be accomplished through the State program amendment process or by State enforcement, by interim direct OSM enforcement, or by joint State and OSM enforcement.

DATES: Written comments must be received by 4:00 p.m., m.d.t. on May 8, 1995. If requested, OSM will hold a public hearing on May 1, 1995, concerning how the underground coal mine subsidence control and water replacement provisions of SMCRA and the implementing Federal regulations, or the counterpart State provisions, should be implemented in Colorado, New Mexico, and Utah. Requests to speak at the hearing must be received by 4:00 p.m., m.d.t. on April 21, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Thomas E. Ehmett, Acting Director, Albuquerque Field Office at the address listed below.

Copies of the applicable parts of the Colorado, New Mexico, and Utah programs, SMCRA, the implementing Federal regulations, information provided by Colorado, New Mexico, and Utah concerning their authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette NW., Suite 1200, Telephone: (505) 766–1486.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Public Law 102–486, 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of the damaged structures as a result of subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt replacement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with

these provisions for operations conducted after October 24, 1992.

B. The Federal Regulations Implementing the Energy Policy Act

On March 31, 1995, OSM promulgated regulations at 30 CFR Part 817 to implement the performance standards of sections 720(a)(1) and (2) SMCRA (60 FR 16722–16751).

30 CFR 817.121(c)(2) requires in part that:

> The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. * * * The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

30 CFR 817.41(j) requires in part that:

> The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.

30 CFR 843.25 provides that by July 31, 1995, OSM will decide, in consultation with each State regulatory authority with an approved program, how enforcement of the new requirements will be accomplished. As discussed below, enforcement may be accomplished through the 30 CFR Part 732 State program amendment process, or by State, OSM, or joint State and OSM enforcement of the requirements. OSM will decide which of the following enforcement approaches to pursue.

(1) *State program amendment process.* If the State's promulgation of regulatory provisions that are counterpart to 30 CFR 817.41(j) and 817.121(c)(2) is imminent, the number and extent of underground mines that have operated in the State since October 24, 1992, is low, the number of complaints in the State concerning section 720 of SMCRA is low, or the State's investigation of subsidence-related complaints has been thorough and complete so as to assure prompt remedial action, then OSM could decide not to directly enforce the Federal provisions in the State. In this situation, the State would enforce its State statutory and regulatory provisions once it has amended its program to be in accordance with the revised SMCRA and to be consistent with the revised Federal regulations. This program revision process, which is addressed in the Federal regulations at 30 CFR Part 732, is commonly referred to as the State program amendment process.

(2) *State enforcement.* If the State has statutory or regulatory provisions in place that correspond to all of the requirements of the above-described Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its statutory and regulatory provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations.

(3) *Interim direct OSM enforcement.* If the State does not have any statutory or regulatory provisions in place that correspond to the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2), then OSDM would enforce in their entirety 30 CFR 817.41(j) and 817.121(c)(2) for all underground mining activities conducted in the State after October 24, 1992.

(4) *State and OSM enforcement.* If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations. OSM would then enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are not covered by the State provisions for these operations.

If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and if the State's authority to enforce its provisions applies to operations conducted on or after some date later than October 24, 1992, the State would enforce its provisions for these operations on and after the provisions' effective date. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992; and OSM would enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are included in the State program but are not enforceable back to October 24, 1992, for the time period from October 24, 1992, until the effective date of the State's rules.

As described in item numbers (3) and (4) above, OSM would directly enforce in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR Part 732, the State's counterparts to the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) or 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(c)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permittee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j), 817.121(c) (2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Colorado

By letter to Colorado dated December 14, 1994, OSM requested information that would help OSM decide which approach to take in Colorado to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Colorado program provisions (Administrative Record No. CO–652). By letter dated February 23, 1995, Colorado responded to OSM's request (Administrative Record No. CO–661).

Colorado stated that permits were issued for 25 underground coal mines after October 24, 1992, and 11 of those

mines actually mined coal after October 24, 1992.

Colorado indicated that prior to June 1, 1992, Colorado had in place surface owner protection performance standards at 2 Code of Colorado Regulations 407–2, Rules 4.20.3(1) and 4.20.3(2) that encompassed the requirements of section 720(a)(1) of SMCRA. Rule 4.20.3(2), which contained requirements regarding an operator's obligation to repair or compensate for material damage or reduction in value or reasonably foreseeable use caused by subsidence to surface structures, features, or values, expired on June 1, 1992, under Colorado's ''Sunset Law.'' The rule expired because Colorado's Office of Legislative Legal Services found during November 1991 it was not supported by statute. Colorado subsequently developed language for a bill to amend the Colorado Surface Coal Mining and Reclamation Act (the Colorado Act) and introduced the bill during the 1995 legislative session. The intent of the bill is to amend section 34–33–121(2)(a) to provide specific statutory support for Rule 4.20.3(2). Colorado has not yet formally submitted this amendment to OSM for review under 30 CFR 732.17.

Colorado explained that, although the specific language of Rule 4.20.3(2) expired during June 1992, the Division of Minerals and Geology has continued since that time to interpret its rules to require that mine operators are responsible for repairing or compensating surface owners for subsidence-caused material damage to structures. Colorado based its authority for doing so on the general provisions of Rule 4.20.3(1) and the subsidence control plan mitigation requirements of Rule 2.05.6(6)(iv).

Colorado indicated that there may be a conflict between the provisions of section 720(a)(2) of SMCRA, which requires prompt replacement of drinking, domestic, or residential water supplies adversely impacted by underground mining operations, and Colorado water law. Consequently, Colorado has requested an opinion from the Colorado Assistant Attorney General in this regard. Existing Colorado Rule 4.05.15 requires operators to ''* * * replace the water supply of any owner of a *vested* water right which is proximately injured as a result of the mining activities in a manner consistent with applicable *State* law'' (emphasis added).

For underground mining operations conducted after October 24, 1992, Colorado has received one complaint alleging subsidence-related structural damage and two complaints alleging subsidence-related water supply loss or contamination. Colorado investigated all three complaints. Colorado determined the complaint alleging subsidence-caused structural damage to be without basis. One of the complaints alleging subsidence-related water supply loss or contamination was withdrawn, and the second is currently under investigation by Colorado.

D. Enforcement in New Mexico

By letter to New Mexico dated December 14, 1994, OSM requested information that would help OSM decide which approach to take in New Mexico to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart New Mexico program provisions (Administrative Record No. NM–725). By letter dated December 22, 1994, New Mexico responded to OSM's request (Administrative Record No. NM–726).

New Mexico stated that two underground coal mines were active in New Mexico after October 24, 1992. New Mexico stated that, because its existing provision at Coal Surface Mining Commission (CSMC) Rule 80–1–20–124 does not include requirements no less stringent than section 720 of SMCRA, it intended to revise this rule to read as follows:

> Each person who conducts underground mining which results in subsidence shall:
>
> (a) Promptly repair, or compensate for, material damage resulting subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structures.
>
> Compensation shall be provided to the owner and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to underground mining which results in damage of the structures, of a noncancellable premium-prepaid insurance policy.
>
> (b) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

New Mexico did not indicate whether it currently has the authority within its program to investigate citizen complaints of structural damage or water supply loss or contamination caused by underground mining operations conducted after October 24, 1992. New Mexico has not received any citizen complaints alleging subsidence-related structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992. New Mexico indicated that both of the underground mines that operated after October 24, 1992, are located several miles from structures subject to the Federal requirements for subsidence-related material damage.

E. Enforcement in Utah

By letter to Utah dated December 14, 1994, OSM requested information that would help OSM decide which approach to take in Utah to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Utah program provisions (Administrative Record No. UT–1001). By letter dated January 20, 1995, Utah responded to OSM's request (Administrative Record No. UT–1015).

Utah stated that the number of underground coal mines in operation after October 24, 1992, may be found in the past and current grant applications filed annually with OSM. From review of these grant applications, OSM determined that there are approximately 21 underground mines that operated after October 24, 1992.

As submitted to OSM on April 14, 1994, and subsequently revised on December 14, 1994 (Administrative Record Nos. UT–917 and UT–997), Utah proposed subsidence material damage provisions at Utah Code Annotated 40–10–18(4) that were intended to be counterparts to the provisions to the provisions of section 720(a)(1) of SMCRA. OSM has not yet published, in accordance with 30 CFR Part 732.17, a final rule **Federal Register** notice detailing its decision on the proposed provisions.

In its January 20, 1995, letter, Utah indicated that it intends to promulgate by March 1996 water replacement statutory provisions that are counterparts to the provisions of section 720(a)(2) of SMCRA.

Utah did not state whether it has authority to investigate citizen complaints of structural damage or water loss caused by underground mining operations conducted after October 24, 1992. Utah indicated that it did receive, investigate, and resolve one citizen complaint after October 24, 1992, but it also indicated that the complaint was judged not to be one that the Energy Policy Act of 1992 revisions to section 720 of SMCRA could remedy.

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Colorado, New Mexico, and Utah to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

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

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., mst on April 21, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

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

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

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

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Colorado, New Mexico, or Utah should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

Dated: March 31, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–8468 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Parts 915, 916, and 925

Iowa, Kansas, and Missouri Regulatory Programs

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

ACTION: Announcement of public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in Iowa, Kansas, and Missouri underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments to SMCRA and the implementing Federal regulations require that underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures. These provisions also require such operations to promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining.

OSM must decide if Iowa's, Kansas', and Missouri's regulatory programs (hereinafter referred to as the ''Iowa, Kansas, and Missouri programs'') currently have adequate counterpart provisions in place to promptly implement the recent amendments to SMCRA and the Federal regulations. After consultation with Iowa, Kansas, and Missouri and consideration of public comments, OSM will decide whether initial enforcement in Iowa, Kansas, and Missouri will be accomplished through the State Program amendment process or by State enforcement, by interim direct OSM enforcement, or by joint State and OSM enforcement.

DATES: Written comments must be received by 4:00 p.m., c.d.t. on May 8, 1995. If requested, OSM will hold a public hearing on May 1, 1995, concerning how the underground coal mine subsidence control and water replacement provisions of SMCRA and the implementing Federal regulations, or the counterpart State provisions, should be implemented in Iowa, Kansas, and Missouri. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on April 21, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Michael C. Wolfrom, Acting Director, Kansas City Field Office at the address listed below.

Copies of the applicable parts of the Iowa, Kansas, and Missouri programs, SMCRA, the implementing Federal regulations, information provided by Iowa, Kansas, and Missouri concerning their authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays.

Michael C. Wolfrom, Acting Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, Room 500, Kansas City, MO 64105, Telephone: (816) 374–6405.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Acting Director, Kansas City Field Office, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Public Law 102–486. 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of the damaged structures as a result of subsidence. Section 720(a0(2) requires

prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt replacement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with these provisions for operations conducted after October 24, 1992.

B. The Federal Regulations Implementing the Energy Policy Act

On March 31, 1995, OSM promulgated regulations at 30 CFR part 817 to implement the performance standards of sections 720(a) (1) and (2) of SMCRA (60 FR 16722–16751).

30 CFR 817.121(c)(2) requires in part that:

> The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. * * * The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

30 CFR 817.41(j) requires in part that:

> The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.

30 CFR 843.25 provides that by July 31, 1995, OSM will decide, in consultation with each State regulatory authority with an approved program, how enforcement of the new requirements will be accomplished. As discussed below, enforcement may be accomplished through the 30 CFR Part 732 State program amendment process, or by State, OSM, or joint State and OSM enforcement of the requirements. OSM will decide which of the following enforcement approaches to pursue.

(1) *State program amendment process.* If the State's promulgation of regulatory provisions that are counterpart to 30 CFR 817.41(j) and 817.121(c)(2) is imminent, the number and extent of underground mines that have operated in the State since October 24, 1992, is low, the number of complaints in the State concerning section 720 of SMCRA is low, or the State's investigation of subsidence-related complaints has been thorough and complete so as to assure prompt remedial action, then OSM could decide not to directly enforce the Federal provisions in the State. In this situation, the State would enforce its State statutory and regulatory provisions once it has amended its program to be in accordance with the revised SMCRA and to be consistent with the revised Federal regulations. This program revision process, which is addressed in the Federal regulations at 30 CFR part 732, is commonly referred to as the State program amendment process.

(2) *State enforcement.* If the State does not have any statutory or regulatory provisions in place that correspond to the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2), then OSM would enforce in their entirety 30 CFR 817.41(j) and 817.121(c)(2) for all underground mining activities conducted in the State after October 24, 1992.

(4) *State and OSM enforcement.* If thee State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations. OSM would then enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(20 that are not covered by the State provisions for these operations.

If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and if the State's authority to enforce its provisions applies to operations conducted on or after some date later than October 24, 1992, the State would enforce its provisions for these operations on and after the provisions' effective date. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992; and OSM would enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are included in the State program but are not enforceable back to October 24, 1992, for the time period from October 24, 1992, until the effective date of the State's rules.

As described in item numbers (3) and (4) above, OSM would directly enforce in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR part 732, the State's counterparts to the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) or 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(c)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permittee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j), 817.121(c) (2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Iowa

By letter to Iowa dated December 14, 1994, OSM requested information from Iowa that would help OSM decide which approach to take in Iowa to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Iowa program requirements (Administrative Record No. IA–413). As of March 21, 1995, Iowa had not responded to OSM's request.

OSM has determined that no underground coal mines were operating in Iowa after October 24, 1992.

OSM's review of Iowa's program indicates that Iowa has not revised its

statute to incorporate counterparts to the requirements of section 720 of SMCRA. Also OSM's review indicates that (1) at Iowa Administrative Code (IAC) 27–40.64(207), Iowa incorporated 30 CFR 817.41 as it existed on July 1, 1992, and (2) at IAC 27–40.64(6), Iowa incorporated 30 CFR 817.121(c)(2) as it existed on July 1, 1992, except the phrase ''To the extent required under applicable provisions of State law.''

D. Enforcement in Kansas

By letter to Kansas dated December 14, 1994, OSM requested information from Kansas that would help OSM decide which approach to take in Kansas to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Kansas program requirements (Administrative Record No. KS–594). By letter dated February 3, 1995, Kansas responded to OSM's request (Administrative Record No. KS–595).

Kansas stated that no underground coal mines were operating in Kansas after October 24, 1992.

Kansas indicated that at Kansas Administrative Regulations (KAR) 47–9–1(d)(40), it adopted 30 CFR 817.121 as it existed on July 1, 1990, and is in the process of promulgating regulations adopting 30 CFR 817.121 as it was written on July 1, 1992. Kansas stated that this revised regulation will authorize the repair of structural damage caused by subsidence in accordance with section 720(a)(1) of SMCRA as it existed on December 31, 1993.

Kansas further indicated that it has the authority to investigate complaints concerning water loss through the material damage criteria of KAR 47–9–1(d)(40, which adopts by reference 30 CFR 817.121(a), and through its hydrologic balance regulations at KAR 47–9–1(d)(7), which adopts by reference 30 CFR 817.41. It further stated that any drinking domestic, or residential water supply, or other beneficial use as defined by the Kansas Water Appropriations Act, which is impaired by diversion or is otherwise impaired, would have to be replaced according to Kansas Statutes Annotated (KSA) 82a–706b. Lastly, Kansas stated that any waters of the state whose quality is adversely impacted will have to be cleaned up at the owner's expense as provided for in KSA 65–171 *et seq.*

Kansas concluded that the above-discussed regulations and statutes adequately encompass the requirements of section 720(a) of SMCRA.

E. Enforcement in Missouri

By letter to Missouri dated December 14, 1994, OSM requested information from Missouri that would help OSM decide which approach to take in Missouri to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Missouri program provisions (Administrative Record No. MO–619. By letter dated February 16, 1995, Missouri responded to OSM's request (Administrative Record No. MO–620).

OSM determined that no underground coal mines were operating in Missouri after October 24, 1992.

Missouri stated that the subsidence plan permitting requirements at 10 Missouri Code of State Regulations (CSR) 40–6.120(11) and the performance standards for subsidence control at 10 CSR 40–3.280 generally correspond to the requirements of section 720(a)(1) of SMCRA. In these regulations, Missouri requires the permit applicant to submit a plan detailing steps to prevent subsidence damage or mitigate effects of that damage to ''structure or renewable resource lands.'' Missouri interprets ''structures to broadly mean any building, whether occupied or unoccupied, and it defines ''renewable resource lands'' as ''aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silviculture production for food and fiber, and grazing lands.''

Missouri also stated that the underground mining permit requirements for alternate water supply at 10 CSR 40–6.110(8) and protection of hydrologic balance requirements at 10 CSR 40–6.120(5)(b)3., together with the performance requirements for water rights replacement at 10 CSR 40–3.200(14), generally correspond to section 720(a)(2) of SMCRA.

Missouri indicated that all of the above-discussed regulations have effective dates preceding October 24, 1992, and appear to provide Missouri authority to enforce the provisions of section 720 of SMCRA.

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Iowa, Kansas, and Missouri to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

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

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on April 21, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

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

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

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

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Iowa, Kansas, and Missouri should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

Dated: March 31, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–8466 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 63

Former Spouse Payments From Retired Pay

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Proposed rule; amendment.

SUMMARY: This proposed rule amends part 63 of title 32 of the Code of Federal Regulations to reflect amendments to the Uniformed Services Former Spouses' Protection Act and to clarify the language in § 63.6(c)(8) concerning court orders that provide for a division of retired pay by means of a formula. Guidance implementing the amendments have been incorporated into Volume 7, Part B of the DoD Financial Management Regulation, DoD 7000.14–R, but has not been previously published in the **Federal Register**.

DATES: Comments must be received June 6, 1995.

ADDRESSES: Interested parties should submit written comments to: Deputy Director for Finance, Defense Finance and Accounting Service, 1931 Jefferson Davis Highway, Arlington, VA 22240–5291, Attention: Military Pay Directorate.

FOR FURTHER INFORMATION CONTACT: Mr. Fiti Malufau, (703) 602–5279.

SUPPLEMENTARY INFORMATION: Because of the large number of comments anticipated, we do not plan to acknowledge or respond to individual comments but will address the comments, as appropriate, in the preamble of the final rule.

To avoid undue hardship on those seeking to enforce support orders providing for a division of retired pay, the Department of Defense will continue to follow its current implementing guidance with regard to the amendments to the Uniformed Services Former Spouses' Protection Act and, effective April 1, 1995, will accept court orders containing formulas that are consistent with the proposed rule until a final rule is issued.

Executive Order 12866, "Regulatory Planning and Review"

The Under Secretary of Defense (Comptroller) has determined that 32 CFR part 63 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, "Regulatory Flexibility Act of 1980" (5 U.S.C. 601–612)

The Under Secretary of Defense (Comptroller) has certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601–612) because it affects only certain military members and their former spouses.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. 3501–3520)

The Under Secretary of Defense (Comptroller) has certified that this amendment of 32 CFR part 63 does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

List of Subjects in 32 CFR Part 63

Alimony, Child support, Retirement, Uniformed Services, Payments to former spouses, Military retired pay.

Accordingly, 32 CFR part 63 is proposed to be amended as follows:

PART 63—FORMER SPOUSE PAYMENTS FROM RETIRED PAY

1. The authority citation for part 63 continues to read as follows:

Authority: 10 USC 1408.

2. Section 63.6 is proposed to be amended by adding the word ''certified'' after the word ''A'' in paragraph (b)(1)(ii), by revising paragraphs (b)(5), (c)(8) and (e), and by adding a new paragraph (h)(13) to read as follows:

§ 63.6 Procedures.

* * * * *

(b) * * *

(5) The designated agent for each uniformed service is:

(i) Army, Navy, Air Force and Marine Corps: Defense Finance and Accounting Service, Cleveland Center (Code LF), PO Box 998002, Cleveland, OH 44199–8002.

(ii) Coast Guard: United States Coast Guard, Commanding Officer (L), Pay and Personnel Center, 444 Quincy Street, Topeka, KS 66683–3591.

(iii) Public Health Service: Office of General Counsel, Department of Health and Human Service, Room 5362, 330 Independence Avenue, SW, Washington, DC 20201.

* * * * *

(c) * * *

(8) The court order shall require payment of child support or alimony or, in the case of a division of property, provide for the payment of an amount of disposable retired or retainer pay, expressed as a dollar amount or as a percentage. Court orders specifying a percentage or fraction of disposable retired pay shall be construed as a percentage or a fraction of disposable retired pay. A court order that provides for a division of retired pay by means of a formula wherein the elements of the formula are not specifically set forth or readily apparent on the face of the court order will not be honored unless clarified by the court. For orders served on or after April 1, 1995, an exception to requiring such a clarifying order will be made only if in accordance with (c)(8) (i), (ii) and (iii) of this section:

(i) The order otherwise qualifies for direct payment but the parties are divorced when the member is on active duty. In that situation, where the pertinent court order is expressed in terms of a formula and the element missing from that formula is the member's years of service, then the designated agent will supply the member's years of service in terms of whole months to arrive at a percentage of disposable pay due the former spouse. Partial months of service will be dropped. The member's service that is creditable for retirement percentage multiplier purposes (See Chapter 1, Section C of DoD Financial Management Regulation, DoD 7000.14–R, Volume 7, Part B [1]) will be used in all formulas. In the case of reserve members, points earned during the member's marriage must be contained in the court order. The designated agent will supply total retirement points earned by a reservist

[1] Copies may be obtained from the Deputy Director for Finance, Defense Finance and Accounting Service, 1931 Jefferson Davis Highway, Arlington, Virginia 22240–5291, Attention: Military Pay Directorate.

if that element is missing from the formula. The formula will be computed based on the member's service for retirement multiplier or points and carried out to four decimal places.

(ii) The order otherwise qualifies for direct payment but the parties are divorced when the member is on active duty and the pertinent court order awarding the former spouse a portion of the member's retired/retainer pay is expressed in terms of a hypothetical retired pay amount—one that is conditional or based upon the occurrence of certain facts and/or events. No application will be processed by the designated agent in the absence of a clarifying order where the hypothetical retired pay amount is to be based upon retired/retainer pay due the member at the time of divorce and the divorce occurs prior to the member's retirement eligibility (at least 15 or 20 years of service) unless the hypothetical retired pay amount is contained in the order or is based on 15 or 20 years of service. All hypothetical awards will be computed on the basis of the member's retired pay at the time of retirement (as explained in paragraph (c)(8)(iii) of this section) and, if the order also provides for the same percentage of cost-of-living adjustments, will be converted to a percentage of current disposable pay. If the hypothetical contained in the court order does not provide for the same percentage of cost-of-living adjustments, then payments will be made in a fixed dollar amount only. As noted in this section, the formula will be carried out to four decimal places.

(iii) *Example.* A court order awards the former spouse 25% of the member's monthly retired/retainer pay of a retired rank of Captain with 20 years of service to include the same percentage of cost-of-living increases. The member later retires after 25 years of service as a Major. The monthly retired pay of a Captain with 20 years of service equals $1,000.00 and the monthly retired pay of a Major with 25 years of service is $1,100; $1,000.00 divided by $1,100.00 equals .909091. This amount (.909091) multiplied by 25% (amount of former spouse award) is .2272. This 22.72% award is proportionately the same share as the 25% award in the court order except it is expressed in terms of the member's actual rather than hypothetical retirement pension.

(iv) Except for years of service or date of retirement, as well as hypothetical retired pay amounts mentioned in paragraphs (c)(8) (i) and (ii) of this section, in order to be honored without the necessity of obtaining a subsequent clarifying order from the court, pertinent court orders must contain a fixed dollar amount or a percentage of disposable pay that can be computed using the qualifying court order alone without reference to any facts or values external to the court order dividing the member's retired/retainer pay.

* * * * *

(e) *Limitations.* (1) Divorces, dissolutions of marriage, annulments, and legal separations that became effective before February 3, 1991. Upon proper service, a member's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount does not exceed:

(i) Fifty percent of disposable retired pay for all court orders and garnishments paid under this part.

(ii) Sixty-five percent of disposable retired pay for all court orders and garnishment actions paid under this part and garnishments paid under 42 U.S.C. 659.

(2) Divorces, dissolutions of marriage, annulments, and legal separations that become effective on or after February 3, 1991. Upon proper service, a member's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, provided the total amount does not exceed:

(i) Fifty percent of disposable retired pay for all court orders and garnishment actions paid under this part.

(ii) Sixty-five percent of the remuneration for employment as defined under 42 U.S.C. 659 and 662 for all court orders and garnishments under this part and garnishments paid under 42 U.S.C. 659.

(3) *Disposable retired pay.* Disposable retired pay is the gross pay entitlement, including renounced pay, less authorized deductions. Disposable retired pay does not include annuitant payments under 10 U.S.C. Chapter 73. For court orders issued on or before November 14, 1986, (or amendments to such court orders), disposable retired pay does not include retired pay of a member retired for disability under 10 U.S.C. Chapter 61. The authorized deductions are:

(i) For divorces, dissolutions of marriage, annulments, and legal separations that become effective before February 3, 1991:

(A) Amounts owed to the United States.

(B) Amounts required by law to be deducted from member's pay.

(C) Fines and forfeitures ordered by a court-martial.

(D) Amounts waived in order to receive compensation under Title 5 or 38 of the United States Code.

(E) Federal employment taxes and income withheld to the extent that the amount is consistent with member's tax liability, including amounts for supplemental withholding under 26 U.S.C. 3402(i) when the member presents evidence to the satisfaction of a designated agent that supports such withholding. State employment taxes and income taxes when the member makes a voluntary request for such withholding from retired pay and the Uniformed Services have an agreement with the State concerned for withholding from retired pay.

(F) Premiums paid as a result of an election under 10 U.S.C. Chapter 73, to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this part.

(G) The amount of the member's retired pay under 10 U.S.C. Chapter 61 computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list), for court orders issued after November 14, 1986.

(ii) For divorces, dissolutions of marriage, annulments, and legal separations that become effective on or after February 3, 1991:

(A) Amounts owed to the United States for previous overpayment of retired pay and for recoupment required by law resulting from entitlement to retired pay.

(B) Forfeitures of retired pay ordered by court-martial.

(C) Amounts waived in order to receive compensation under Title 5 or 38 of United States Code.

(D) Premiums paid as a result of an election under 10 U.S.C. Chapter 73 to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this part.

(E) The amount of member's retired pay under 10 U.S.C. Chapter 61 computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list).

* * * * *

(h) * * *

(13) For divorces, dissolutions of marriage, annulments, and legal separations that become effective on or after February 3, 1991, payments to a former spouse for a division of property are excluded in determining a member's gross wages concerning retired pay.

* * * * *

Dated: March 31, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–8408 Filed 4–5–95; 8:45 am]

BILLING CODE 5000–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 58

[AD–FRL–5183–2]

National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)—Proposal of Part 51 and Part 58 Implementation Strategies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of the public hearing and notice of availability.

SUMMARY: The EPA is announcing the public hearing on the proposal of the implementation options for the national ambient air quality standard (NAAQS) for sulfur oxides (sulfur dioxide) (SO_2) published on March 7, 1995. The EPA is also announcing the availability of a supplement to the Regulatory Impact Analysis (RIA) for the proposed changes to the NAAQS for SO_2. The supplement includes additional analysis on the costs of the section 303 option in the previous proposal.

DATES: Written comments must be received on or before June 5, 1995, and a public hearing on the proposed rule will be held on May 16, 1995 beginning at 9:00 a.m.

ADDRESSES: Submit written comments on the proposed action on 40 CFR parts 51 and 58 (duplicate copies preferred) to the Air and Radiation Docket Information Center (6102), Room M–1500, U.S. Environmental Protection Agency, Attn: Docket No. A–94–55, 401 M Street SW., Washington, DC 20460. This docket contains supporting information used in developing the proposed rule, and is located in the Air and Radiation Docket Information Center of the U.S. Environmental Protection Agency, South Conference Center, Room M–1500, 401 M Street SW., Washington DC 20460. The docket may be inspected between 8:30 a.m. and 3:30 p.m. on weekdays. A reasonable fee may be charged for copying.

The public hearing will be held at the U.S. Environmental Protection Agency's Environmental Research Center Auditorium, 86 T.W. Alexander Drive, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Part 51 Notice—Laura D. McKelvey, Air Quality Strategies and Standards Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5497. Part 58 Notice—David Lutz, Emissions Monitoring and Analysis Division (MD–14), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5476. The supplemental RIA—Allyson Siwik, Air Quality Strategies and Standards Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–7775.

SUPPLEMENTARY INFORMATION: On November 15, 1994, at 59 FR 58958, EPA proposed three options for changes to the NAAQS for SO_2. On March 7, 1995, at 60 FR 12492, EPA proposed in the **Federal Register** the requirements for implementing the alternative measures and changes in the SO_2 ambient air surveillance network. That document requires that written comments on the proposed options for changes to parts 51 and 58 to implement changes in the SO_2 standard be submitted to EPA by June 5, 1995. Today's action announces the availability of the supplement to the RIA for the changes to the SO_2 NAAQS and the public hearing on the implementation plan and ambient air quality surveillance network for April 13, 1995.

Individuals planning to make oral presentations at the hearing should notify Laura D. McKelvey at the above address at least 7 days prior to the date of the hearing. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements (duplicate copies preferred) should be submitted to the appropriate docket at the above address.

A verbatim transcript of the hearing and written statements will be available for copying during normal working hours at the Air and Radiation Docket Information Center (6102), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 51

Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

List of Subjects in 40 CFR Part 58

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: March 28, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–8206 Filed 4–5–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 86

[FRL–5185–1]

RIN 2060–AE27

Revisions to the Federal Test Procedure for Emissions From Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: On April 19 and 20, 1995, the Environmental Protection Agency (EPA) will hold a public hearing in Ann Arbor, Michigan, to receive comments from interested parties on the Proposed Regulations for Revisions to the Federal Test Procedure for Emissions from Motor Vehicles, published in the **Federal Register** on February 7, 1995 (60 FR 7404).

DATES: Comments on the published proposal (60 FR 7404) will be accepted through May 20, 1995. The public hearing will be held on April 19, 1995, from 10:00 a.m. until 5:00 p.m. and on April 20, 1995, from 8:00 a.m. until 5:00 p.m.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–92–64, at: Air Docket Section, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Materials relevant to this notice have been placed in Docket No. A–92–64. The docket is located at the above address in Room M–1500, Waterside Mall, and may be inspected weekdays between 8:30 a.m. and 5:30 p.m. A reasonable fee may be charged by EPA for copying docket materials.

The public hearing will be held at the Towsley Auditorium, Morris Lawrence Building, Washtenaw Community College, 4800 East Huron River Drive, Ann Arbor, Michigan. This facility can be reached from exit no. 39 on U.S. Route 23 by going east on Geddes Rd., then south on Dixboro Rd., then east on Huron River Drive. A map is available by mail or fax by calling the EPA at (313) 668–4384.

FOR FURTHER INFORMATION CONTACT: Jim Markey, Certification Division, U.S. Environmental Protection Agency, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann

Arbor, Michigan, 48105. Telephone (313) 668–4534. Fax (313) 741–7869.

SUPPLEMENTARY INFORMATION:

I. Background

On February 7, 1995, EPA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** that proposed additions and revisions to the tailpipe emissions portions of the Federal Test Procedure (FTP) for light-duty vehicles and light-duty trucks (60 FR 7404). Interested parties should consult that notice and/or the public docket for a detailed description and background of the proposal. The primary element of that NPRM was a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the current FTP in the representation of aggressive driving behavior (high speed and/or high acceleration), rapid speed fluctuations, driving behavior following startup, air conditioning, and intermediate-duration periods where the engine is turned off. An element of the proposed SFTP that also would affect the conventional FTP is a new set of requirements designed to more accurately reflect real road forces on the test dynamometer. The Agency also proposed emission standards for the new control areas with a specified phase-in period for these standards.

II. Public Participation

A. Comments and the Public Docket

The Agency welcomes comments on all aspects of this proposed rulemaking. All comments, with the exception of proprietary information, should be directed to the EPA Air Docket Section, Docket No. A–92–64 (see **ADDRESSES**). Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by:

- Labeling proprietary information ''Confidential Business Information'' and
- Sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket. This will help ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a non-confidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-served basis, and will follow the testimony that is arranged in advance.

The Agency recommends that multiple copies of the statement or material to be presented be brought to the hearing for distribution to EPA and members of the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed in this notice.

The official records of the hearing will be kept open for 30 days following the hearing to allow submissions of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–92–64 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the hearing will be made and a copy thereof placed in the public docket. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

Dated: March 29, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–8503 Filed 4–5–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 761

[OPPTS–66009B; FRL–4948–1]

RIN 2070–AC01

Disposal of Polychlorinated Biphenyls (PCBs); Extension of Comment Period and Notice of Informal Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period and rescheduling of informal hearing.

SUMMARY: EPA is extending the comment period for a proposed rule to amend its rules under the Toxic Substances Control Act (TSCA) for polychlorinated biphenyls (PCBs), which was published in the **Federal Register** on December 6, 1994 [59 FR 62788]. As a result of this extension, EPA is also rescheduling the public hearing for this same rule.

DATES: Written comments must be received or postmarked by May 5, 1995. The informal public hearing will take place on Tuesday, June 6, 1995, from 9:00 a.m. to 5:00 p.m. If necessary, the hearing will be extended to 9:30 p.m., and it may also be continued the following day, Wednesday, June 7, 1995, beginning at 9:00 a.m. Written requests to participate in the hearing must be received or postmarked by May 15, 1995.

ADDRESSES: All comments should be identified with the document control number (OPPTS–66009A), and submitted in triplicate to TSCA Docket Receipt (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460. The hearing will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202, telephone (703) 486–1111. Requests to participate in the informal public hearing should be sent to: Record and Hearing Clerk, Operations Branch, Mail Code 7404, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. See **SUPPLEMENTARY INFORMATION** for the type of information that must be included in the request and who may participate. Requests for a waiver to participate in the informal hearing by those organizations that did not file main comments must be sent to the Record and Hearing Clerk.

FOR FURTHER INFORMATION CONTACT: James Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone:

(202) 554–1404, TDD: (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: On December 6, 1994, EPA's Office of Pollution Prevention and Toxics published a proposed rule [59 FR 62788] to amend its rules under TSCA for PCBs. Changes proposed by EPA would affect the disposal, marking, storage, use, reporting and recordkeeping requirements for PCBs. Written comments on the proposed rule were to be received on or before April 6, 1995. EPA received a request seeking a 30–day extension of the public comment period because the length and complexity of the proposal required additional time to develop comments. EPA believes that providing an additional 30 days to prepare written comments is reasonable, and is granting the request. Written comments must now be received by EPA or postmarked on or before May 5, 1995. EPA is requesting comment on the proposed rule only to the extent that it would amend or change existing regulations. EPA is not soliciting comment on provisions of existing regulations that would not be changed by this proposal. Unit V of the preamble to the proposed rule [59 FR 62788] explains how commenters may make claims of business confidentiality for information included in comments. In the March 10, 1995, **Federal Register** [60 FR 13095] EPA announced that an informal public hearing on the proposed rule would be held on May 2 and 3, 1995. As a result of the extension of the written comment period, EPA must reschedule this hearing. Provisions at 40 CFR part 750 require the informal hearing for main comments to be held at least 2 weeks after the close of the written comment period. Accordingly, EPA has rescheduled the hearing for June 6 and 7, 1995.

Each person or organization desiring to participate in the informal hearing shall file a written request to participate with the Record and Hearing Clerk (see **ADDRESSES** above). The request shall be received on or before May 15, 1995. Persons or organizations that have already submitted requests to participate in response to the March 10 notice are assumed by EPA to want to participate at the rescheduled hearing, and they need not resubmit their requests.

The request shall include: (1) A brief statement of the interest of the person or organization in the proceeding; (2) a brief outline of the points to be addressed; (3) an estimate of the time required (not to exceed 15 minutes); and (4) if the request comes from an organization, a nonbinding list of the persons to take part in the presentation. Due to the expected number of speakers, comments must be limited to 15 minutes. An organization that has not filed main comments on the rulemaking will not be allowed to participate in the hearing, unless a waiver of this requirement is granted by the Record and Hearing Clerk (see **ADDRESSES** above) or the organization is appearing at the request of EPA or under subpoena (40 CFR 750.6(a)). The complete procedures for this informal hearing are identified in 40 CFR part 750, subpart A, and are summarized in the March 10, 1995 [60 FR 13095] hearing notice.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Joseph S. Carra,

Direction, Office of Pollution Prevention and Toxics.

[FR Doc. 95–8501 Filed 4–5–95; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[I.D. 032295C]

Reef Fish Fishery of the Gulf of Mexico; Public Hearings on Draft Amendment 11

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

ACTION: Public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene 10 public hearings on Draft Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Draft Amendment 11 will address a variety of reef fish management measures.

DATES: Written comments on Draft Amendment 11 will be accepted until May 3, 1995. Public hearings will be held in April. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the hearings.

ADDRESSES: Written comments should be sent to, and copies of the draft amendment are available from, Mr. Steven M. Atran, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609 (FAX: 813–225–7015). Public hearings will be held in Florida, Texas, Alabama, Mississippi, and Louisiana. See **SUPPLEMENTARY INFORMATION** for locations of the hearings.

FOR FURTHER INFORMATION CONTACT: Steven M. Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, 813–228–2815.

SUPPLEMENTARY INFORMATION: Issues that will be addressed in Draft Amendment 11 include: Proposed modifications of the FMP regulatory framework procedure for the annual specification of total allowable catch (including changes in procedures), the definition of optimum yield, and the criteria for specifying the length of a stock recovery program for overfished reef fish species; permitting issues (including dealer and vessel permit conditions), transferability provisions, implementation of a new vessel permit moratorium for the fishery, and permits for charter vessels and headboats; allowing hook-and-line harvest of reef fish by shrimp vessels; issues related to enforceability of reef fish regulations; changes to amberjack size and bag limits and a commercial seasonal closure; changes to gag/black grouper and red snapper size limits; and an aggregate bag limit for reef fish.

The hearings are scheduled from 7 p.m. to 10 p.m. as follows:

1. Monday, April 17, 1995—NMFS Panama City Laboratory, Conference Room, 3500 Delwood Beach Road, Panama City, FL 32408;

2. Monday, April 17, 1995—Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL 33040;

3. Tuesday, April 18, 1995—Our Lady Star of the Sea, Parish Hall, 705 Longoria, Port Isabel, TX 78578;

4. Tuesday, April 18, 1995—Orange Beach Community Center, 27301 Canal Road, Orange Beach, AL 36561;

5. Tuesday, April 18, 1995—Ramada Airport Hotel, 5303 West Kennedy Boulevard, Tampa, FL 33609;

6. Wednesday, April 19, 1995—University of Texas, Visitor's Center Auditorium, 750 Channel View Drive, Port Aransas, TX 78373;

7. Wednesday, April 19, 1995—J. L. Scott Marine Education Center & Auditorium, 115 East Beach Boulevard (U.S. Highway 90), Biloxi, MS 39530;

8. Thursday, April 20, 1995—Holiday Inn on the Beach, 5002 Seawall Boulevard, Galveston, TX 77551;

9. Monday, April 24, 1995—Venice Fire House, Highway 23, Venice, LA 70091; and

10. Tuesday, April 25, 1995—Larose Regional Park, Versailles Room, 2001 East 5th Street, Larose, LA 70373.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs (see **ADDRESSES**) by April 10, 1995.

Dated: March 31, 1995.

David S. Crestin,

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

[FR Doc. 95–8396 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[I.D. 033095A]

Groundfish of the Bering Sea and Aleutian Island Area; Chum Salmon Savings Area

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 35 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on the FMP amendment should be submitted on or before May 30, 1995.

ADDRESSES: Comments on the FMP amendment should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 35 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis prepared for the amendment are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone, 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any FMP or amendment it prepares to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a document that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

If approved, Amendment 35 would establish an area closed to fishing with trawl gear from August 1 through August 31, and after August 31, upon attainment of a 42,000 nonchinook salmon limit, through October 14. This area, the Chum Salmon Savings Area, is in the Bristol Bay area of the Bering Sea. It is intended to reduce nonchinook (chum) salmon bycatch in the Bering Sea nonroe pollock fishery.

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

Dated: March 31, 1995.

David S. Crestin,

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

[FR Doc. 95–8391 Filed 3–31–95; 4:09 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 66

Thursday, April 6, 1995

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

March 31, 1995.

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) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) 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

• Consolidated Farm Service Agency
Supplemental Qualifications Statement
FAS–1010
Individuals or households; 252 responses; 1,008 hours
Patricia A. Carter, (202) 720–5267

• Food and Consumer Service
WIC Farmer's Market Nutrition Program (FMNP) Annual Financial Report, FMNP Recipient Report, and FMNP Regulation
FNS–683 (Financial Report), FNS–203 (Recipient Report) State, Local or Tribal Government; 1,126 responses; 5,952 hours
Debra Utting (703) 305–2998

• Rural Economic & Community Development
7 CFR 1945–A, Disaster Assistance (General)
Business or other for-profit; Farms; State, Local, or Tribal Government; 1,000 responses; 783 hours
Jack Holston, (202) 720–9736

Extension

• Animal & Plant Health Inspection Service
Domestic Quarantines
PPQ Forms 527, 530, 537, 540, 543, 586
Individuals or households; Business or other for-profit; Farms; Federal Government; State, Local or Tribal Government; 1,005,331 responses; 98,910 hours
Sid Cousins, (301) 734–8247

• Rural Economic & Community Development
7 CFR 1940–G, Environmental Program
FmHA 1940–20
Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government; 5,380 responses; 57,120 hours
Jack Holston, (202) 720–9736

• Rural Economic & Community Development
7 CFR 1980–G, Nonprofit National Corporations Loan and Grant Program
FmHA 1980–60–61, and 63
Business or other for-profit; Non-for-profit institutions; State, Local or Tribal Government; 354 responses; 487 hours
Jack Holston, (202) 720–9736

New Collection

• Office of Communications
Team USDA AmeriCorps National Service Participant Application
AD–1099
Individuals or households; 4,000 responses; 2,000 hours
Ronald N. De Munbrun, (202) 690–3894

Reinstatement

• Rural Utilities Service
Report of Compliance and Participation
RUS Form 268
Individual or households; Business or other for-profit; Not-for-profit institutions; 3,680 responses; 1,233 hours
Regina Claiborne, (202) 720–9507.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–8423 Filed 4–5–95; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

[No. LS–95–005]

Notice of Upcoming Soybean Producer Poll

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing a producer poll to be held on July 26, 1995, to determine if soybean producers support the conducting of a refund referendum on whether refunds should continue under the Soybean Promotion, Research, and Consumer Information Program.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; AMS, USDA, Room 2624–S; P.O. Box 96456; Washington, D.C. 20090–6456. Telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION: Pursuant to the Soybean Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 6301 et. seq.), the U.S. Department of Agriculture is conducting the required producer poll on July 26, 1995.

Both registration and signing of the poll to request a refund referendum will be held on July 26, 1995, at Consolidated Farm Service Agency (CFSA) (formerly the Agricultural Stabilization and Conservation Service (ASCS)) county offices.

Absentee forms may be requested by mail or in person from June 19 through July 14, 1995, from county CFSA offices located in or serving the county where the producer resides. Completed forms must be postmarked or returned in person no later than July 14, 1995.

Producers who certify that they produced soybeans between September 1, 1991, and June 1, 1995, are eligible to request a refund referendum by participating in the producer poll. Only those producers who want to request that a refund referendum be held are asked to participate.

The purpose of the poll is to determine whether eligible producers favor the conducting of a refund referendum on the continuance of payments of refunds under the Soybean Promotion and Research Order. If at least 20 percent (not in excess of one-fifth of which may be producers in any one State) of the 381,000 producers nationwide participate in the poll, a refund referendum will be held within 1 year from that determination. Refunds would continue until the referendum is held. If results of the poll indicate that a referendum is not supported, refunds would be discontinued upon that determination.

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements made in connection with the producer poll have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581–0093.

Authority: 7 U.S.C. 6301–6311.

Dated: March 31, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–8427 Filed 4–5–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Joseph Jeno Nandory

In the **Federal Register** of Thursday, March 23, 1995, the Bureau of Export Administration published an Order at 15285. This notice is being published to provide the address of the respondent in that order. The address is as follows: Joseph Jeno Nandory, 5178 Ganado Drive, Las Vegas, Nevada 89103.

Dated: March 30, 1995.

John Despres,

Assistant Secretary of Export Enforcement.

[FR Doc. 95–8487 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 10–95]

Foreign-Trade Zone 143, Sacramento, CA; Application for Subzone Status C. Ceronix, Inc. (Video Monitors), Auburn, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Sacramento, grantee of FTZ 143, requesting special-purpose subzone status at the gaming/recreational machine video monitor manufacturing plant of C. Ceronix, Inc. (Ceronix), in Auburn, California (Sacramento Customs port of entry area). 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 March 28, 1995.

The Ceronix plant (45,000 sq. ft. on 3.6 acres) is located at 12265 Locksley Lane, Auburn, California, some 35 miles east of Sacramento. The facility (46 employees) is used to manufacture hi-resolution (VGA) video monitors for electronic gaming and recreational machines (e.g., bowling tallies, lottery, poker). Foreign-sourced components (approx. 60% of product value) include printed circuit boards, transformers, capacitors, resistors, semiconductor devices, integrated circuits, certain cathode ray tubes, conductors, fasteners and miscellaneous items for gaming/recreational machines. The cathode ray tubes are limited to those classified under HTS 8540.30 (duty rate—5.4%). The finished products are classified under HTS headings for gaming/recreational machines (HTS 9504—duty free) or data processing machines (HTS 8471—duty rates: 0–4.4%). Some 30 percent of the finished products are exported.

Zone procedures will exempt Ceronix from Customs duty payment on materials used for its export production. On its domestic sales, the company would be able to choose the duty rate applicable to finished products (0–4.4%) rather than the rates otherwise applicable to components (duty rates: 0–9.8%). The application indicates that zone savings will help improve the plant's international competitiveness.

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 is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 6, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 20, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Customs Service, Enforcement Office, P.O. Box 214666, Sacramento, CA 95821

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: March 30, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–8512 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–838]

Notice of Postponement of Final Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China (PRC)

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

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Karla Whalen, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–4136 or (202) 482–6309, respectively.

POSTPONEMENT OF FINAL DETERMINATION: The China Chamber of Commerce for Foodstuffs, Native Produce and Animal By-products Importers and Exporters (the Chamber), and 28 individual Chinese exporters, respondents in this proceeding, represent a significant proportion of exports of honey from the PRC to the United States. On March 17, 1995, the Chamber and the 28 individual Chinese exporters requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Such is the case with the respondents in this investigation. Accordingly, we are postponing our final determination as to whether sales of honey from the PRC have been made at less than fair value until not later than August 2, 1995.

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

Dated: March 30, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8509 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–100–002]

Notice of Price Determination, Uranium from Kazakhstan, Kyrgyzstan, and Uzbekistan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: Pursuant to section IV.C.1. of the antidumping suspension agreements on uranium from Kazakhstan, Kyrgyzstan, and Uzbekistan, the Department calculated a price for uranium of $12.06/lb. On the basis of this price, the export quota for uranium pursuant to Section IV.A. of the Uzbek and Kyrgyz agreements is zero. The export quota for uranium pursuant to Section IV.A. of the Kazakhstani agreement, as amended on March 27, 1995, is 500,000 lbs. for the period April 1, through September 30, 1995. Exports pursuant to other provisions of the agreements are not affected by this price.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Maureen Price or Beth Chalecki, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0159 or (202) 482–2312, respectively.

PRICE CALCULATION:

Background

Section IV.C.1. of each agreement specifies that the Department of Commerce (DOC) will issue its observed market price on April 1, 1995, and use it to determine the quota applicable to exports from the various republics during the period April 1, 1995 to September 30, 1995.

Calculation Summary

Section IV.C.1. of each agreement specifies how the components of the market price are reached. In order to determine the spot market price, the Department utilized the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department utilized the weighted average long-term price as determined by the Department on the basis of information provided by market participants and a simple average of the UPIS Base Price for the months in which there were new contracts reported.

Our letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U_3O_8 equivalent). Using the information reported in the proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 2.65 percent, which was derived from a rolling average of the annual GNP Implicit Price Deflator index from the past four years. The Department used the base quantities reported on the summary sheet for the purpose of weight-averaging the prices of the long-term contracts submitted by market participants. We then calculated a simple average of the UPIS Base Price and the longer-term price determined by the Department.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA), to weight the spot and long-term components of the observed price. In this instance, we have used purchase data from the period 1989–1992, as in the previous determination. During this period, the spot market accounted for 31.39 percent of total purchases, and the long-term market for 68.61 percent. We were not able to include data from the 1993 EIA Uranium Industry Annual because it has been withheld due to its proprietary nature.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is $12.06. This reflects an average spot market price of $9.57, weighted at 31.39 percent, and an average long-term contract price of $13.19, weighted at 68.61 percent. Since this price is below the $13.00/lb. minimum expressed in Appendix A of the Uzbek and Kyrgyz agreements, there will be no quota under Section IV.A. of the agreements available to these republics for the period April 1, 1995 to September 30, 1995. However, since this price is above the $12.00/lb. minimum expressed in Appendix A of the amended Kazakhstani agreement, Kazakhstan receives a quota of 500,000 lbs. for the period April 1, 1995 to September 30, 1995.

Comments

Consistent with the Department's letters of interpretation dated February 22, 1993, we provided interested parties our preliminary price determination on March 10, 1994. We received no comments.

We have determined that the observed market price for uranium is $12.06/lb. The Department invites parties to provide pricing information for use in the next price determination. Any such information should be provided for the record and should be submitted to the Department by September 5, 1995.

Dated: March 30, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–8510 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DS–M

[C–557–806]

Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 8, 1994, the Department of Commerce (the Department) published the preliminary results of its administrative review of the countervailing duty order on extruded rubber thread from Malaysia. We have now completed this review and determine the bounty or grant during the period January 1, 1992 through December 31, 1992 to be 3.30 percent *ad valorem* for all companies.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Chris Jimenez, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1994, the Department published in the **Federal**

Register (59 FR 46392) the preliminary results of its administrative review of the countervailing duty order on extruded rubber thread from Malaysia (57 FR 38472; August 25, 1992). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. We received written comments from the Government of Malaysia (GOM), respondent, and North American Rubber Thread, petitioner.

The period of review is January 1, 1992 through December 31, 1992 and affects entries made on or after March 31, 1992 and before April 28, 1992, and all entries made on or after August 25, 1992 through December 31, 1992. For an explanation of entries covered, see the ''Final Results of Review'' section of this notice.

This review involves four companies: Heveafil Sdn. Bhd. (Heveafil), Filmax Sdn. Bhd. (Filmax), Rubberflex Sdn. Bhd. (Rubberflex), and Filati Lastex Elastofibre Sdn. Bhd. (Filati). The review covers the following programs:

(1) Pioneer Status.

(2) Export Credit Refinancing (ECR).

(3) Abatement of Income Tax Based on the Ratio of Export Sales to Total Sales.

(4) Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports.

(5) Industrial Building Allowance.

(6) Double Deduction for Export Promotion Expenses.

(7) Rubber Discount Scheme.

(8) Investment Tax Allowance.

(9) Abatement of Five Percent of Taxable Income Due to Location in a Promoted Industrial Area.

(10) Allowance of a Percentage of Net Taxable Income Based on the F.O.B. Value of Export Sales.

(11) Double Deduction of Export Credit Insurance Payments.

(12) Abatement of Taxable Income of Five Percent of Adjusted Income of Companies Due to Capital Participation and Employment Policy Adherence.

(13) Preferential Financing for Bumiputras.

After consideration of the GOM's comments on the preliminary results of review, the Department has recalculated the cash deposit to account for the elimination of the Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports Program. In addition, the Department recalculated the post-shipment financing benefits to account for its inadvertent omission of certain transactions. Accordingly, the Department determines the total bounty or grant from all programs under review to be 3.30 percent *ad valorem* for all companies.

Scope of Review

Imports covered by this review are shipments of extruded rubber thread from Malaysia. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. During the review period, such merchandise was classifiable under item number 4007.00.00 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Calculation of Country-Wide Rate

We calculated the bounty or grant on a country-wide basis by first calculating the bounty or grant for each company subject to the administrative review. We then weight-averaged the bounty or grant received by each company using as the weight its share of total Malaysian extruded rubber thread exports to the United States, including all companies, even those with *de minimis* or zero bounties or grants. We then summed the individual companies' weight-averaged bounties or grants to determine the bounty or grant from all programs benefitting extruded rubber thread exports to the United States. Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR 355.7 (1994), we proceeded to the next step and examined the total bounty or grant calculated for each company to determine whether individual company bounty or grant differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). In calculating the individual company rates described above, only one rate was calculated for Heveafil and Filmax because Heveafil and Filmax were related parties.

None of the companies received aggregate bounties or grants which were significantly different within the meaning of 19 CFR 355.22(d)(3)(i). Therefore, the country-wide rate is based on the weighted-average aggregate bounties or grants received by the companies subject to this review.

Analysis of Comments

Comment 1: The GOM alleges that the Department initiated the original investigation pursuant to Section 303(a)(2) of the Act, and, therefore, the Department can impose countervailing duties under this section only if there is an injury determination by the International Trade Commission (ITC). (The ITC discontinued its injury determination under Section 303(a)(2) because the duty-free status of rubber thread from Malaysia was terminated.) The GOM contends that without an injury determination, the Department had no authority to issue a countervailing duty order and to require the bonds or cash deposits. The GOM further maintains that the Department cannot simply transfer the jurisdiction for an investigation from Section 303(a)(2) to Section 303(a)(1) without issuing a public notice that it intends to proceed with the investigation under a different statutory provision. *See, Certain Textile Mill Products and Apparel from Turkey* (50 FR 9817; March 12, 1987); *Certain Textile Mill Products and Apparel from the Philippines* (50 FR 1195; March 26, 1985) and *Certain Textile Mill Products and Apparel from Indonesia* (50 FR 9861; March 12, 1985). Furthermore, because there was no initiation notice or a preliminary determination under section 303(a)(1), a final determination under that section was not appropriate. If Commerce wanted to proceed with the investigation, it was required to re-initiate under the appropriate provision.

Petitioner argues that the Department has previously rejected the GOM's claims and, therefore, they merit no more consideration.

Department's Position: The GOM's challenge to the Department's authority to issue the order is untimely. Challenges to the issuance of an order must be filed within 30 days of the date the order is published. The countervailing duty order on extruded rubber thread from Malaysia was published on August 25, 1992. The GOM voluntarily withdrew a timely-filed complaint challenging the order on these same grounds. The GOM's attempt to reverse that challenge in this proceeding is untimely.

Comment 2: The GOM contends that the Department overstated the benefit received under the ECR program in its administrative review. The GOM argues that the Department must use the ''cost of funds'' to the government as the benchmark as required by item ''k'' of the Illustrative List of Export Subsidies annexed to the Subsidies Code, and the appropriate ''cost of funds'' is the 90-day rate for government bonds. The GOM asserts that if the Department instead uses the cost to the recipient as a benchmark, it should continue its past practice and use the bankers'

acceptances (BA) rates because they are identical to ECR financing in terms of risk, maturity and purpose. The GOM further contends that the Department should interpret the ''predominant'' form of financing as the most comparable form of financing. It asserts that it makes no sense to compare trade financing to other financing such as short-term loans and overdrafts. Furthermore, if the Department uses the weighted-average of commercial rates, it should account for the differences in the terms of financing.

Petitioner argues that it is the Department's practice to use the national average short-term borrowing rate. It further argues that companies cannot borrow at the government borrowing rate; therefore, ''cost of funds'' to the government is an improper benchmark.

Department's Position: We disagree with the GOM. The Illustrative List identifies common forms of export subsidies but does not necessarily instruct the Department how to value them. The Department has a longstanding practice of valuing the benefit to the recipient rather than the cost to the government for the purpose of calculating countervailing duty rates.

The Department's practice is to use the rate for the predominant form of short-term financing in the country under review as the benchmark for short-term loans. *See, Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments* (59 FR 23380; May 31, 1989) (*Proposed Rules*). Where there is no single predominant source of short-term financing in the country in question, the Department may use a benchmark composed of the interest rates for two or more sources of short-term financing in the country in question. *See, Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Steel Wire Rope from Thailand* (56 FR 46299; September 11, 1991). BAs constitute an extremely small percentage of short-term financing in Malaysia and, therefore, it would be inappropriate to use the BA rates as a benchmark.

At verification, the GOM provided the *Bank Negara Malaysia Quarterly Bulletin,* which lists the commercial bank base lending (BLR) rates prevailing during the review period. The rates ranged from 9.97 percent to 10.29 percent. According to commercial bank officials, the banks add a 1.00 to 2.00 percent spread to the BLR.

Therefore, we have determined that it is appropriate to continue to use the average of the commercial BLR rates published in *Bank Negara Malaysia Quarterly Bulletin,* plus an average 1.5 percent spread, as a benchmark, in accordance with section 355.44(b)(3)(i) of the Department's *Proposed Rules.*

Comment 3: The GOM argues that both Heveafil and Filmax specifically excluded U.S. exports from the calculation of eligibility for the pre-shipment export financing. In addition, the GOM claims that the two companies did not use funds from exports to the United States to repay any of the pre-shipment loans. The GOM claims that in a similar situation, the Department concluded that exports to the United States did not receive benefits from short-term financing. *See, Suspension of Countervailing Duty Investigation; Certain Forged Steel Crankshafts from Brazil* (52 FR 28177, 28179; July 28, 1987) (*Brazilian Crankshafts Suspension Agreement*). Therefore, the GOM maintains that the companies received no benefit with regard to U.S. shipments.

Petitioner argues that the exclusion of U.S. exports from the eligibility calculation did not affect benefits received and, therefore, the Department should dismiss the GOM's claim.

Department's Position: The GOM provides ECR financing based on export performance. The explicit purpose of this program is to promote the export of manufactured and approved agricultural products. Two types of ECR financing are available: pre-shipment and post-shipment financing. There is no evidence that the GOM limits these ECR loans to increase exports to markets other than the United States, nor is there any evidence of a provision that prevents exporters from receiving ECR loans for exports to the United States. In fact, at verification we found that Heveafil received an ECR post-shipment loan for a U.S. export during the review period.

During the review period, both Heveafil and Filmax applied for and used pre-shipment financing based on certificates of performance (CP). Pre-shipment financing based on CPs is a line of credit based on previous exports and cannot be tied to specific sales in specific markets. Because pre-shipment loans were not shipment specific, we included all loans in calculating the country-wide duty rate. By excluding exports to the United States from their application for export financing, the companies merely reduced the amount of financing they received. In addition, at verification, company officials at the Heveafil and Filmax rubber factories could not tie the rubber latex purchased with the pre-shipment loans to products exported to destinations other than the United States. The GOM incorrectly claims that, in a similar situation in the *Brazilian Crankshafts Suspension Agreement,* the Department concluded that no subsidy from the CACEX short-term financing was provided on exports to the United States because exporters agreed not to use that portion of any outstanding CACEX pre-shipment loans certificates which were based on merchandise exported to the United States. In fact, in the final determination of *Brazilian Crankshafts,* the Department found the CACEX export financing program to be countervailable. *See, Final Countervailing Duty Determination; Certain Forged Steel Crankshafts From Brazil* (52 FR 28254, 28255; October 15, 1987). Therefore, we affirm that pre-shipment financing benefits all exports, including those to the United States.

Comment 4: The GOM argues that in calculating the benefit from the post-shipment program the Department used the incorrect interest rates for certain transactions made by Filmax and Rubberflex. Since interest paid for such financing was broken out by interest rates charged by specific banks, the Department should recalculate the benefit using the applicable rates.

Department's Position: We agree and have made the adjustments accordingly. In addition, we are including certain transactions made by Rubberflex that we inadvertently omitted in our calculation of post-shipment financing benefits. These changes increase the benefit from this program from 0.0003 percent *ad valorem* to 0.11 percent ad valorem.

Comment 5: The GOM argues that in calculating the export abatement benefit the Department should consider the actual tax savings in a particular year. Therefore, the Department should consider the non-countervailable deductions. If those non-countervailable deductions equal the tax liability, then there is no benefit in the year in question.

Petitioner argues that the GOM's claim ignores the fact that the subsidy's existence permits tax benefits to be carried forward to other years. Hence, the Malaysians do benefit from the export abatement subsidy. Further, petitioner believes that it is reasonable to assume that the Malaysians will take advantage of subsidy tax deductions.

Department's Position: Essentially the GOM has asked us to assume that the non-countervailable allowances are used first, even if the non-countervailable allowances can be carried forward, while the export allowance cannot be carried forward. As we stated in the final determination in the investigation, given this distinction, it is more reasonable to assume that the

export abatement is used first. *See, Malaysian Final Determination.* Therefore, we continue to treat the export abatement as fully countervailable based on the tax return filed in the year under review.

Comment 6: The GOM argues that since Heveafil and Filmax eliminated U.S. exports from their application for the tax deduction under the export abatement program, the Department cannot attribute any of the tax abatement program to such exports. Citing section 355.47(a) of the *Proposed Rules,* the GOM argues that the Department cannot find a program countervailable unless its benefits are tied to the subject merchandise.

Petitioner argues that the GOM's method of exclusion was illusory, as it did not affect the benefits received.

Department's Position: In calculating the ratio of total exports to total sales, Heveafil, the only company that claimed the abatement on its income tax return filed in the review period, deducted the amount of U.S. exports from both the numerator and denominator. In essence, the companies merely prorated the benefit (*i.e.* adjusted downward using the ratio of U.S. exports to total exports), since its calculation did not significantly change the ratio applied to adjusted income to determine its export abatement. The calculation methodology used by Heveafil in its tax return did not eliminate the benefit attributable to sales of U.S. exports. Therefore, we confirm our preliminary determination that this program provides a countervailable benefit with respect to exports of the subject merchandise.

Comment 7: The GOM argues that the Department assumed that the entire deduction for all other export tax programs resulted in cash savings in the year under investigation. Moreover, these programs are unlike the export abatement in that they can be carried forward.

Department's Position: The companies under review earned several types of allowances which may be used to offset taxable income. Each year, the company calculates the total value of allowances to which it is entitled. It then draws from this total the amount needed to eliminate any tax liability in that year. If anything remains in the pool, it can be carried forward to offset taxable income in future years.

The specific allowances drawn from the pool in any given year are not identified on the tax form. Therefore, it was necessary to develop a methodology for estimating the portion of the allowance used in a given year that is attributable to countervailable programs, and the portion that is attributable to non-countervailable programs in order to calculate the net bounty or grant.

As we did in the investigation, we assumed during this review that the countervailable programs would be used first. Our rationale was to consider that a central purpose of the countervailing duty law is to encourage foreign governments not to provide countervailable subsidies. In this review, this purpose can best be served by selecting the remaining countervailable allowances before selecting any of the non-countervailable allowances available to the companies.

In addition, if we treat a portion of the countervailable allowances as having been used, other portions carried forward for future use would also be countervailable when used. This means that we would have to track allowances carried forward and trace from year to year what portion of the allowances carried forward is countervailable. To avoid an unadministerable system of tracking and tracing, we have treated the countervailable portions as having been used in the year under review.

Comment 8: The GOM argues that the Department previously found the Pioneer Status Program not countervailable. *See Carbon Steel Wire Rod from Malaysia; Final Results of Countervailing Duty Administrative Review (Wire Rod from Malaysia)* (56 FR 14927; April 12, 1991). The GOM asserts that it is not countervailable because tax benefits under this program are not limited to any sector or region of the Malaysian economy, nor is the program exclusively available to exporting companies. The GOM contends that the Department confirmed at verification, both the *de jure* and *de facto* availability of this program to the entire Malaysian economy, and that pioneer status tax benefits are not targeted to specific industries or companies in a discriminatory manner. Furthermore, the Department verified that the internal guidelines used to grant pioneer status are characterized by neutral criteria unrelated to exports, location or any other factors that could require a determination that the program is countervailable.

The GOM further argues that the Department verified that the GOM does not require export commitments, or view them as preponderant, in evaluating applications; that export potential is merely one of 12 factors considered in granting status; and that a product will not be accepted based on export potential alone. Furthermore, the GOM argues that the Department verified that the Malaysian Government commonly approves companies who do not make export commitments as well as some who do make them. Therefore, market destination is irrelevant to granting pioneer status.

Department's Position: In *Wire Rod from Malaysia,* we concluded that no industry or group of industries used the program disproportionately and found the program not to be countervailable. That determination, however, did not specifically address situations where companies had a specific export condition attached to their pioneer status approval. In the *Wire Rod* investigation, petitioner raised the issue of an export requirement. Although the requirement *per se* is not new, it was not at issue with the companies investigated at the time.

As stated in the *Malaysian Final Determination,* we continue to view the ''domestic'' side of the Pioneer Status Program to be not countervailable. However, in this instance recipients of the tax benefits conferred by this program can be divided into two categories: industries and activities that will find market opportunities in Malaysia and elsewhere, and those that face a saturated domestic market. At verification, we established that an export requirement may sometimes be applied to certain industries after it is determined that the domestic market will no longer support additional producers. The extruded rubber thread industry is among these industries.

The combination of the necessary export orientation of the industry due to lack of domestic market opportunities and the explicit export condition attached to pioneer status approval in the rubber thread industry lead us to conclude that the ''export'' side of the Pioneer Status Program constitutes an export subsidy to the rubber thread industry. Whether or not the commitment was voluntary, as the GOM suggests, the company has obligated itself to export a very large portion of its production, and that commitment appears to have been an important condition for approval of benefits. For further information, *see Malaysian Final Determination.*

Comment 9: The GOM argues that the Department overstated the benefit from the Pioneer Status Program because it fails to deduct normal capital allowances that would have been allowed if the program had not been used. The GOM claims that Rubberflex and Filmax, in fact, received no cash benefits from this program. Furthermore, the Department incorrectly allocated pioneer status tax benefits over only export sales even though pioneer status tax benefits are also applicable to profits on domestic

sales. According to the GOM, this is consistent with the Department's practice to allocate benefits over total sales to which they are ''tied.''

Petitioner argues that pioneer status tax benefits are for the exports of the subject product. Thus, they are countervailable and properly allocated only over export sales.

Department's Position: We have not overstated the benefit from the Pioneer Status Program. When a company receives pioneer status, it is allowed to stockpile normal capital allowances for use in future years. Therefore, these allowances should not be used to offset current benefits. Moreover, export sales should form the denominator because receipt of pioneer status tax benefits for the companies under review is contingent upon exportation. *See* section 355.47(a)(2) of the *Proposed Rules.*

Comment 10: The GOM argues that the Rubber Discount Program ended on December 31, 1991 and that exports on or after January 1, 1992 were no longer eligible for rubber discount benefits. The GOM further argues that in the original investigation, the Department determined that the benefit from this program occurs at the time of export (not at the time of receipt of the cash).

Therefore, exports after December 31, 1991 did not receive benefits.

Petitioner, on the other hand, argues that the benefit from the program occurs at the time of receipt of the funds, as only then does the company have the money to use.

Department's Position: We agree with respondent. In the preliminary results, the Department determined that the benefits were conferred at the time of export. Since the program was terminated effective January 1, 1992, and the last date exports were eligible for rebates was December 30, 1991, no benefits were received from this program during the review period. Our position remains unchanged from our preliminary results.

Comment 11: The GOM contends that we should adjust the cash deposit to reflect program-wide changes affecting future benefits: the reduction in the abatement of income for exports, the elimination of the development tax and the reduction of the corporate tax.

Petitioner argues that cash deposit should not differ from the subsidy found in the review period, because the actual benefit is not known until after the full investigation of the level of subsidization.

Department's Position: According to 19 CFR 355.50(a), the cash deposit rate will be adjusted for program-wide changes (1) which occur after the review period, but before the preliminary results are published, and (2) which can be measured. The benefits of certain types of programs are not always measurable. For example, in cases of certain loan programs, there may be many factors affecting the subsidy rate, not all of which can be quantified in advance. *See, e.g., Certain Textile Mill Products from Thailand,* 52 FR 7636 (1987); and *Textile Mill Products from Mexico,* 50 FR 10824 (1985); *see, also, Live Swine From Canada,* 53 FR 22189 (1988).

In the instant review, the reduction of the corporate tax and the elimination of the development tax are not program-wide changes, but changes in one factor of the benefit calculation. In *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof from Singapore Final Results of Countervailing Duty Administrative Review* (56 FR 26384, 26386; June 7, 1991), regarding the reduction of the corporate tax rate, we stated that ''there are a number of factors other than the corporate tax rate which affect the benefit calculations (*i.e.,* total sales, total exports, adjusted profits, and investment allowances). Since changes in these factors can offset one another, a * * * reduction in the tax rate does not warrant a reduction in the cash deposit rate.'' While the reduction in the corporate tax rate and the elimination of the development tax may change the level of benefits found for a tax program, these changes in the tax rates do not constitute a program-wide change in a subsidy program under section 355.50 of the *Proposed Rules.*

The GOM also changed the abatement of income from exports programs by reducing the abatement rates. While the reduction in the abatement rates meets the definition of a ''program-wide change'' under section 355.50(b) of the *Proposed Rules,* that change cannot be measured. Companies earn several types of general tax allowances which are not under review and which may be used to offset taxable income. Each year, the companies calculate the total value of allowances to which they are entitled. They draw from the total allowances the amount needed to eliminate any tax liability in that year. If anything remains in the pool, it can be carried forward to offset taxable income in future years. *See, Department's Position* to *Comment 7.* It is not known what deductions companies have taken until the tax returns are filed, and it is inappropriate to assume that the adjusted income would remain constant in the year(s) subsequent to our review period. We do not have information regarding the companies' current income and the consequences of the adjusted income, and it would be inappropriate to gather such information because that would, in essence, constitute a new review. Therefore, we have not adjusted the cash deposit.

Unlike the above changes, we verified that the GOM has eliminated the Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports Program. We consider this program to be a program-wide change because it occurred before we published the preliminary results and the change can be measured. We also verified that there are no residual benefits. As such, we have adjusted the cash deposit rate to reflect this change.

Comment 12: The GOM claims that Section 707 of the Act prohibits the Department from ordering the collection of countervailing duties on entries made on or after April 28, 1992 and before August 25, 1992.

Department's Position: We agree. See the ''Final Results of Review'' section of this notice.

Final Results of Review

After considering all comments received, we determine the bounty or grant to be 3.30 percent *ad valorem* for the period January 1, 1992 through December 31, 1992.

The Department issued the its preliminary affirmative countervailable duty determination in the investigation on December 30, 1991 (56 FR 67276). However, the ITC terminated its injury determination on Malaysian extruded rubber thread in light of the revocation of duty-free status under the Generalized System of Preferences, effective March 31, 1992. Therefore, as a result of the ITC determination, the Department issued instructions to Customs to liquidate entries of the subject merchandise entered, or withdrawn from warehouse, for consumption prior to March 31, 1992, without the imposition of countervailing duties. (*See Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread from Malaysia* (58 FR 41084; August 2, 1993)).

In accordance with 705(a)(1) of the Act, the final determination in the investigation was extended to coincide with the final antidumping determination involving the same product from Malaysia (57 FR 38472; August 25, 1992). Pursuant to section 705 of the Act and Article 5.3 of the GATT Subsidies Code, we cannot require suspension of liquidation for more than 120 days without the issuance of a countervailing duty order.

Therefore, the Department instructed Customs to terminate the suspension of liquidation on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 28, 1992. The Department reinstated suspension of liquidation and required cash deposits of estimated countervailing duties of entries made on or after August 25, 1992, the date of publication of the countervailing duty order (57 FR 38472). As such, merchandise entered on or after April 28, 1992 and before August 25, 1992 is to be liquidated without regard to countervailing duties.

The Department will instruct the Customs Service to assess countervailing duties of 3.30 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after March 31, 1992 and before April 28, 1992, and on all shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after August 25, 1992 and exported on or before December 31, 1992.

The elimination of the Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports Program reduces the total estimated duty deposit to 3.18 percent *ad valorem*. Therefore, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.18 percent *ad valorem* of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 355.22.

Dated: March 29, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8513 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DS–P

Rutgers, The State University of New Jersey, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–146. *Applicant:* Rutgers, The State University of New Jersey, Piscataway, NJ 08855-0909. *Instrument:* Test Frame with Accessories. *Manufacturer:* Hi-Tech Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 442, January 4, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–8508 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–DS–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for National Service Leadership Training Program

AGENCY: Corporation for National and Community Service.

ACTION: Notice of Availability of Funds.

SUMMARY: The Presidio Leadership Center (PLC) of the Corporation for National Service (the Corporation) announces its intention to make available approximately $200,000 to support one or more new cooperative agreements that would assist the PLC in developing and providing a leadership development and training program for approximately 180 leaders of Corporation-funded programs and other service programs, over a twelve to sixteen month period. The delivery of the program by applicants must include a ''training of trainers'' approach and preparing the PLC staff and selected individuals to continue portions of the training on a larger scale after the cooperative agreement ends.

DATES: All applications must be received by 3:30 p.m. PST, May 8, 1995.

ADDRESSES: Applications may be obtained from and must be submitted to the Corporation at the following address: Corporation for National Service, Presidio Leadership Center, Attention: Ms. Pipo Bui, Building 386, Moraga Avenue, The Presidio of San Francisco, CA 94129.

FOR FURTHER INFORMATION CONTACT: This notice is an abbreviated version of information that is contained in the application materials. For further information and to obtain application materials, please contact Ms. Pipo Bui at the Presidio Leadership Center, by facsimile at (415) 561–5955, or by phone at (415) 561–5950. This notice may be requested in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National Service is a government organization created by the National and Community Service Act of 1990, as amended, 42 U.S.C. § 12501 et seq. [''the Act'']. The Corporation's mission is to engage Americans of all ages and backgrounds in community-based service. This service will address the nation's education, human, public safety, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation will foster civic responsibility, strengthen the ties that bind us together as a people, and provide educational opportunity for those who make a substantial commitment to service.

The Act authorizes the Corporation to conduct, directly or by grant or contract, training programs to promote leadership development in national service programs. The Presidio Leadership Center was established in 1995 by the Corporation with the purpose of developing leadership for community service. The Center is working to:

- Create a sense of professional identity and shared purpose among leaders working at all levels in national service;
- Help leaders and potential leaders increase their effectiveness in accomplishing the goals of their programs and of national service;
- Create opportunities for new leadership to emerge, strengthening the diversity, richness, and energy of those who guide national service;
- Encourage leaders to weave community service into the fabric of the way that every community approaches its challenges.

The leadership development program described in this notice, primarily targeted at executives and senior managers in service programs, has been tentatively named the Presidio Leadership Fellowship Program (PLFP). It is the first initiative of the PLC. This program is subject to availability of

funds. We expect to offer a number of other leadership development programs serving various kinds of leaders in the service field. In addition, we expect to offer conferences, seminars, and other opportunities for leaders in national and community service to exchange ideas and best practices, and develop innovative ways to serve the American people.

A. Expected Outcomes

The leaders we hope to serve through the PLFP include executive directors, site directors, and senior staff of AmeriCorps* USA programs, AmeriCorps*VISTA programs, Learn and Serve programs, National Senior Service Corps programs, leaders within the AmeriCorps* National Civilian Community Corps, executive directors of state commissions, and others. We expect to achieve the following outcomes:

- PLFP participants, or Fellows, improve their performance over time, on specific, measurable objectives they set for themselves as demonstrated through even greater effectiveness of their programs.
- Fellows report a significant increase in the amount and quality of regular peer to peer exchange of information and practices, sharing of lessons learned, and support among leaders of service programs.
- There is a growing cadre of trained facilitators, trainers, and coaches who will work with the PLC and other community service programs to implement leadership training programs.
- Rates of retention and promotion of Fellows in the field are higher than those of peers who do not participate in this program.
- Fellows report high levels of satisfaction with this program.

B. Approach

The Presidio Leadership Fellowship is a new program that supports national and community service and looks to use the most innovative and effective tools, methods, and techniques in doing so. Substantial involvement is expected between the PLC and the successful applicants when carrying out the program. The PLC is looking for organizations who can work with us to develop an outstanding leadership development program as well as a ''train-the-trainer'' process (for both participants and staff) to continue and expand the program in the future.

1. Learning Goals of the PLFP

The PLC will help leaders develop skills and personal leadership approaches that will enable them to succeed in leading programs that provide excellent service to American communities. We expect to help leaders develop within three skill areas, which we have designated as 'learning goals'. They are: (a) building and maintaining a high quality service organization; (b) strategic thinking; (c) personal dimensions of leadership. We expect that leaders will grow significantly in these areas as a result of participation in the Fellowship.

2. Basic Structure of the PLFP

The PLC expects the program to follow the outlined structure. Applicants are invited to suggest alternatives to components of this structure, but in the application should offer a program that fits this structure as well as any alternatives, and the rationale for those alternatives.

- Program Components.

The PLFP will be a year-long leadership development experience for leaders of community service programs. The specific components of the program are set forth in section IIA.

- Diverse participants.

Each class of approximately 30 participants will include executive directors or other high- level managers of community service programs, the majority of whom have funding from the Corporation. A summary of Corporation-funded programs will be provided in the application materials. Most of the program directors have responsibility for planning, fundraising, managing staff, budgets, mastering and complying with government regulations, working with community boards, forming community partnerships, drawing strength from a diverse staff, community, and group of AmeriCorps members, and relating to government agencies at the local, state, and federal level. They are managing in an environment of ambitious expectations and limited resources, as well as specific and demanding policies and requirements of the Corporation.

- Three-year phased implementation.
- Recruitment and selection of participants
- Tuition
- Following effective practice in adult learning.

C. PLC Involvement

The PLC will be involved in all activities undertaken as part of this cooperative agreement. PLC involvement may include but is not limited to:

- Participation by PLC staff or consultants in the planning and management of the program, and provision of general monitoring and oversight to ensure high program quality;
- Selection of participants;
- Provision of guidance in the process of assessment of needs and interests of leaders in the service field to be addressed through the PLFP;
- Participation in the development of schedules, curriculum and materials for trainings and other activities;
- Attendance at and participation in delivery of all activities contained in the cooperative agreement; and delivery of certain portions of the training (for example, teaching a case study during the five-day seminar);
- Coordination of activities between providers of services to the PLC through cooperative agreement(s), and with Corporation-funded programs and the Corporation for National Service.
- Analysis of evaluation information collected by providers and/or the PLC staff concerning the PLFP.
- Assistance in accessing available information and technical assistance from Government sources, within available resources and as determined by the Executive Director of the PLC. This shall include data from the Corporation's database or any other resources within the government that may be of use in supporting this program.

II. Work To Be Accomplished Through This Cooperative Agreement

These are the activities for which the PLC seeks assistance through this cooperative agreement. Section IIA, ''Program design and delivery activities,'' describes components of the program to be delivered. Applicants can apply to design and conduct all or some of the components outlined in section IIA. Section IIB, ''Required project activities'', describes tasks that must be accomplished as part of the cooperative agreement. These tasks include forming an effective working partnership with PLC and Corporation staff; collaborating with other organizations or individuals to design and deliver the program; engaging in evaluation and continuous improvement of the program; providing a conceptual framework for leadership development or incorporating the applicant's services into a framework selected by the PLC; and others.

A. Program Design and Delivery Activities

In order to have an impact and improve the leadership skills of the Fellows, we believe that the ideal program will work with the Fellows over a period of time and not just be a ''one shot'' training experience.

However, cost will be a factor. The following activities are the components of an ''ideal'' program:

1. Preparation (high priority)
2. Presidio five-day intensive seminar (high priority)
3. Network teams/action learning during six months after intensive seminar
4. Next steps seminar one year after intensive seminar (Optional—depending on cost)
5. Leader grants (small grants ranging from $100 to $5,000 to Fellows who agree to provide special services to other Corporation-funded programs)
6. Evaluation

B. Required Project Activities

Applicants must demonstrate their commitment to completing the following tasks and explain how they will accomplish them.

1. Formation of an effective working partnership with PLC and Corporation staff.

2. Collaboration with other organizations or individuals to design and deliver the program.

3. Evaluation and continuous improvement of the program.

4. Provision of a powerful conceptual framework for leadership development or incorporating the applicant's services into a framework selected by the PLC.

5. Demonstration that the applicant will bring a truly diverse team of trainers and facilitators (and coaches if applicable) to the project, and that the applicant is prepared to integrate and train individuals provided by the PLC in such roles.

III. Application Requirements

A. Eligibility Requirements

To be eligible to participate in this cooperative agreement program, applicants must be a non-profit organization, an educational institution, or a for-profit business organization. Regardless of the type of organization applying for Federal funding assistance, no fee or profit will be allowed.

B. Period of Support

The cooperative agreement will cover a period of between 12 and 16 months, beginning on or about June 1, 1995, with the possibility of renewal based on performance, need, and availability of funds at the discretion of the Corporation. However, there are no assurances for such continuation.

C. Application Procedure

Each applicant must submit one original and three copies of its application package. Only complete application packages received on or before 3:30 p.m. PST May 8 will be considered.

D. Application Contents

1. Forms and Certifications. All pre-printed application forms must be completed and, where required for certification, signed.

2. Narrative Statement. Maximum 10 single-sided pages double-spaced in 12-point font (excluding any attachments described in the application materials).

3. Budget and Other Required Information. Applicants will be required to provide budget information as described in the application materials and comply with (1) applicable Office of Management and Budget Circulars; (2) certification requirements concerning debarment, suspension, other responsibility matters, drug-free workplace, and lobbying restrictions; and (3) appropriate assurances pertaining to recipients of federal funding. Further information about these requirements will be included in the application materials.

E. Application Review

Initially all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application complies with the application instructions and contains all the information required by the Application Contents section of the application packet. Each complete application from an eligible applicant will then be evaluated by a Technical Evaluation Panel. The PLC may request that those applicants selected as finalists provide a range of references; provide various training materials, videos, or other materials for review; and/or be interviewed by phone or in person. The following criteria will be used to evaluate proposals. Percentage weights are given for the importance of each criterion in evaluating the applications.

30% Quality of program and implementation plan.

30% Organizational capacity.

20% Cost effectiveness.

20% Quality and experience of training staff.

Dated: April 3, 1995.

Terry Russell,

General Counsel Corporation for National Service.

[FR Doc. 95–8514 Filed 4–5–95; 8:45 am]

BILLING CODE 6050–28–P

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: Customer Satisfaction Survey—Generic Clearance Request.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 27,000.

Responses per Respondent: 1.

Annual Responses: 27,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 6,610.

Needs and Uses: The Defense Finance and Accounting Service (DFAS) intends to conduct a number of surveys designed to determine the kind and quality of service their customers want and expect, as well as their satisfaction with DFAS's existing services. The information collected thereby, will be used by DFAS to determine where and to what extent services are satisfactory, as well as to identify areas in which service can be improved.

Affected Public: Individuals or households; Businesses or other for-profit; and Small businesses or organizations.

Frequency: On occasion.

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: March 31, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–8409 Filed 4–5–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team scheduled for April 4–5, 1995 as published in the **Federal Register** (Vol. 60, No. 57, Page 15538, Friday, March 24, 1995, FR Doc 95–7222) was cancelled.

Dated: March 31, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–8410 Filed 4–5–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Notice of Reservation Only Meeting

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of meeting.

SUMMARY: The Military Traffic Management Command (MTMC) will host twelve meetings with industry to discuss Reengineering the Personal Property Program. The purpose of these meetings is to provide a forum where we can brief the concept and hear industry comments and concerns. We are interested in meeting with all carriers and agents, large, small, and/or minority or anyone interested in participating in the Personal Property Program.

DATES: Meetings will be held on April 21, May 1, 3, 5, 8, 10, 12, 15, 17, 19, 31, and June 2 from 8:30 a.m.–12:30 p.m. The attendance will be by reservation only.

ADDRESSES: Headquarters, Military Management Traffic Management Command, ATTN: MTOP–QEC, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Conna Jack, MTOP–QEC, (703) 756–1292.

SUPPLEMENTARY INFORMATION: Reservations may be made by contacting your association or contacting HQMTMC. When we receive the request, we will try to accommodate your requested attendance date, however, if we have more than 25 people for a specific meeting, we may need to change your date. Requests will be filed on a first come first serve basis. We will send confirmation letters providing service basis. We will send confirmation letters providing directors, maps and parking information.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–8413 Filed 4–5–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 20 and 21 April 1995.

Time of Meeting: 0900–1600, 20 April 1995; 0900–1200, 21 April 1995.

Place: Alexandria, VA.

Agenda: The Army Science Board (ASB) Independent Assessment Panel on ''Army Family Housing'' will hold a meeting to review current Army Family Housing policies and issues and to examine new business and privatization alternatives. These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–8481 Filed 4–5–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Draft Environmental Impact Statement for the Interim Management of Nuclear Materials at the Savannah River Site

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability of draft environmental impact statement (EIS) and notice of public hearings.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of a Draft EIS entitled ''Interim Management of Nuclear Materials, Savannah River Site, Aiken, South Carolina'' (DOE/EIS–0220D). The Draft EIS assesses the potential environmental impacts of managing nuclear materials that are currently stored in various facilities and conditions at the Savannah River Site.

An Environmental Protection Agency **Federal Register** notice of availability for the subject Draft EIS was published March 17, 1995 (60 FR 14433), initiating the public review and comment period. The public review and comment period extends through May 1, 1995.

The Department of Energy provided direct notice to over 2000 individuals and organizations on the availability of the Draft EIS; copies of the Draft EIS were distributed to several hundred of these individuals or groups. Additional copies of the Draft EIS can be obtained or reviewed as indicated below.

DOE invites public comments on the Draft EIS and will hold public hearings on the document.

DATES: The public comment period for the Draft EIS ends on Monday, May 1, 1995. Written comments regarding the document should be postmarked by Monday, May 1, 1995, to ensure consideration in preparation of the Final Environmental Impact Statement. Comments sent after that date will be considered to the extent practicable. Two public hearings (which will also serve as informational meetings) will be held on the Draft EIS: Tuesday, April 11, 1995, in Savannah, Georgia; and Thursday, April 13, 1995, in North Augusta, South Carolina. The locations for these meetings are identified below.

ADDRESSES: Combined information meetings and public hearings on the Draft EIS have been scheduled. Addresses for the public meeting locations are as follows:

Tuesday, April 11, 1995, from 1 p.m. to 4 p.m. and 6 p.m. to 9 p.m.: Coastal Georgia Center for Continuing Education 305 Martin Luther King, Jr. Boulevard Savannah, Georgia 31412

Thursday, April 13, 1995, from 1 p.m. to 4 p.m. and 6 p.m. to 9 p.m.: North Augusta Community Center, 495 Brookside Avenue, North Augusta, South Carolina 29841.

The public is invited to provide comments on the Draft EIS to DOE representatives at the hearings. Written and verbal comments will be given equal weight. Written comments on the Draft EIS, requests for copies of the document, and requests for further information should be directed to: Mr. A. B. Gould, Jr., NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P. O. Box 5031, Aiken, South Carolina 29804–5031, Attention: ''Interim Management of Nuclear Materials EIS''. Telephone: Information Line (800) 242–8269.

FOR FURTHER INFORMATION CONTACT: For general information on DOE's National Environmental Policy Act (NEPA) process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone:

(202) 586–4600 or leave a message at (800) 472–2756.

Issued in Washington, DC, on April 3, 1995.

Eugene C. Schmitt,

Director, Office of Integration and Assessment, Office of Environmental Management.

[FR Doc. 95–8498 Filed 4–5–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Community Outreach; Pre-Application Conference and Notice of Availability of Financial Assistance To Establish and Support a Water Resources Center

AGENCY: Department of Energy (DOE), Savannah River Operations Office (SR).

ACTION: Notice of Pre-Application Conference and Availability of Financial Assistance Application.

SUMMARY: SR is announcing a Pre-Application Conference for organizations wishing to be considered as the entity to establish and support a Water Resources Center for the Central Savannah River Area (CSRA). The conference is scheduled for Tuesday, April 18, 1995, at the Savannah River Site (SRS), Aiken, SC, commencing at 8:30 a.m. and completing by 5:00 p.m. In addition to discussion regarding the objectives of the Water Resources Center and the criteria which will be used to select the applicant, the conference will also offer a tour of the Savannah River Technology Center whereby participants will have an opportunity to become familiar with available technologies. A solicitation for the Water Resources Center will be made available on or about March 31, 1995.

SUPPLEMENTARY INFORMATION: The Water Resources Center is intended to be a private sector developed and operated project. Government interest in this project is in stimulating the economic development of the region surrounding federal facilities by providing initial financial assistance and access to technology developed at federal facilities using federal funding. The intent is to encourage development of a Water Resources Center that brings together and deploys capabilities and technologies from industry, academia, federal, and private research facilities and organizations. the proposed center will be located in the CSRA in one of the following counties: Aiken, Barnwell, Allendale in South Carolina; or Columbia, Richmond in Georgia. The designated location of this center is to facilitate development of a partnership between SRS, the Savannah River Technology Center, and industry in the area of water resources.

The SR Office of Technology Development has agreed to provide financial assistance to initiate establishment of a Water Resources Center. Funding for this initiative will be in the form of a Grant as provided by the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95224). Authority for funding this project is found in Section 3135 of the FY 1994 National Defense Authorization Act, Public Law 103–160, November 1993.

The estimated federal funding for the Water Resources Center is $1.5 million, and funding response to this solicitation must include matching funding at a minimum. Those who submitted and Expression of Interest (EOI) in response to SR's Commerce Business Daily announcement of November 14, 1994, will automatically receive a copy of the solicitation. Notification to attend the conference and/or requests for copies of the solicitation should be received in writing or be transmitted via facsimile to (803) 725–8573 no later than close of business (5:00 p.m. Eastern Standard Time) on April 14, 1995. Please identify in the notifications the name, citizenship, social security number, and birthdate for all attendees. This is required in order to process access authorizations for SRS. Requests or notifications should be sent to Scott D. Stephenson, Contracts Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802. Telephonic requests will not be accepted.

Issued in Aiken, SC, on March 13, 1995.

Robert E. Lynch,

Head of Contracting, Activity Designee, Contracts Division, Savannah River Operations Office.

[FR Doc. 95–8497 Filed 4–5–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER94–1143–001, et al.]

Interstate Power Company, et al. Electric Rate and Corporate Regulation Filings

March 24, 1995.

Take notice that the following filings have been made with the Commission:

1. Interstate Power Company

[Docket No. ER94–1143–001]

Take notice that on March 14, 1995, Interstate Power Company tendered for filing its compliance report in the above-referenced docket.

Comment date: April 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of Colorado

[Docket No. ER95–585–000]

Take notice that on March 14, 1995, Public Service Company of Colorado (Public Service), tendered for filing an amendment in the above-referenced docket.

Copies of the filing were served upon Western, Tri-State, PRPA, Basin and state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: April 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company

[Docket No. ER95–722–000]

Take notice that on March 9, 1995, Bangor Hydro-Electric Company tendered for filing its Second Amendment to the Power Sales Agreement between Bangor Hydro-Electric Company and UNITIL Power Corporation.

Comment date: April 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER95–728–000]

Take notice that on March 10, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Transmission Service Agreements with City of Bountiful, Utah (Bountiful), Rainbow Power Marketing Corporation (Rainbow) and InterCoast Power Marketing Company (InterCoast) under, PacifiCorp's FERC Electric Tariff, Original Volume No. 5, Service Schedule TS–5.

Copies of this filing were supplied to Bountiful, Rainbow, InterCoast, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. San Diego Gas & Electric Company

[Docket No. ER95–732–000]

Take notice that on March 13, 1995, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Power Exchange Corporation (PXC).

SDG&E requests that the Commission allow the Agreement to become effective on the 15th day of May, 1995 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and PXC.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER95–734–000]

Take notice that on March 13, 1995, Portland General Electric Company (PGE), tendered for filing revisions to PGE's FERC Electric Tariff, Original Volume No. 2 (PGE–2), and twenty-three (23) new unsigned Service Agreements under PGE–2 with:

City of Azusa Light & Water Department
AES Power Inc.
Arizona Power Pooling Association
Ashton Energy Corporation
CRSS Power Marketing, Inc.
Eclipse Energy, Inc.
El Paso Electric Company
Engelhard Power Marketing, Inc.
Equitable Power Services Co.
Gulfstream Energy, LLC
Heartland Energy Services, Inc.
Howell Power Systems, Inc.
Imperial Irrigation District
InterCoast Power Marketing Co.
National Electric Associates
Nevada Power Company
NorAm Energy Services, Inc.
Plains Electric Generation &
Transmission Cooperative, Inc.
Public Service Company of Colorado
Public Service Company of New Mexico
Rainbow Energy Marketing Corporation
Tucson Electric Power Co.
Vesta Energy Alternatives Co.

Pursuant to 18 CFR 35.11, and the Commission's Order in *Central Hudson Gas & Electric Corp., et al.*, 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992), PGE has requested that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the revised tariff, PGE–2, to become effective March 13, 1995.

Copies of the filing have been served on the parties included in the Certificate of Service attached to the filing letter.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Gas Corporation

[Docket No. ER95–738–000]

Take notice that on March 14, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Electric Clearinghouse, Inc. (ECI). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to ECI and ECI will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective March 15, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and ECI.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER95–739–000]

Take notice that on March 14, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Burlington Electric Department (BED). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to BED and BED will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on March 15, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and BED.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Maine Yankee Atomic Power Company

[Docket No. ER95–747–000]

Take notice that Maine Yankee Atomic Power Company, on March 15, 1995 tendered for filing a limited Section 205 filing solely for approval of earnings on Construction Work In Progress balances for the year 1994 that were included in rates subject to refund. Total earnings on CWIP for 1994 were $239,750 or 0.14 percent of total billings. The represents a decrease of $240,901 from the 1993 CWIP billings of $480,651.000.

Copies of the limited Section 205 filing were served upon Maine Yankee's jurisdictional customers, secondary customers, and Massachusetts Department of Public Utilities, Vermont Public Service Board, Connecticut Public Utilities Control Authority, Maine Public Utilities Commission, New Hampshire Public Utilities Commission and Office of the Public Advocate, State of Maine.

Comment date: April 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8432 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11402–000 Michigan]

City of Crystal Falls, MI; Notice of Availability of Draft Environmental Assessment

March 31, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the Crystal Falls Hydroelectric Project, located in Iron County, Michigan, and has prepared a Draft Environmental

Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing unlicensed project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix ''Crystal Falls Hydroelectric Project No. 11402'' to all comments. For further information, please contact Tom Dean at (202) 219–2778.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8430 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2290–006–CA]

Southern California Edison Company; Renotice of Availability of Draft Environmental Assessment

March 31, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for new license for an existing licensed hydropower project on the Kern River owned and operated by the Southern California Edison Company: the Kern River No. 3 Project No. 2290, located in Kern and Tulare Counties, California. Subsequently, the Commission's staff prepared a Draft Environmental Assessment (DEA) that discusses the relicensing of the project.

In the DEA, staff evaluates the potential environmental impacts that would result from the continued operation of the project. Staff concludes that relicensing the project with appropriate enhancement measures would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 2290 to the first page of all comments.

For further information, please contact Kathleen Sherman, Environmental Coordinator, at (202) 219–2834.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8470 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–214–000]

Colorado Interstate Gas Company; Notice of Tariff Compliance Filing

March 31, 1995.

Take notice that on March 28, 1995, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FER Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of April 1, 1995:

First Revised Sheet No. 369A
First Revised Sheet No. 369B

CIG states that the above-referenced tariff sheets are being filed to reflect that all Buyers have paid in full for obligations pursuant to Docket Nos. RP94–85 and RP94–130. (Docket Nos. RP94–85 and RP94–130 are the latest dockets where CIG has sought recovery of take-or-pay ''buyout'' or ''buydown'' costs pursuant to the Commission's Order No. 528.)

CIG states that copies of this filing were served upon all parties in this proceeding and affected state commissions.

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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before April 7, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8433 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–7–23–001]

Eastern Shore Natural Gas Company; Notice of Filing of Corrected Tariff Sheets

March 31, 1995.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on March 28, 1995 certain substitute revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective April 1, 1995.

On March 14, 1995, ESNG filed revised tariff sheets in Docket No. TM95–7–23–000 to track changes in Transco's fuel retention percentages and ESNG's pipeline suppliers' storage service rates, both to be effective April 1, 1995.

ESNG has since discovered on its Schedule D1, Text ID 9, Working Paper #1, Page 2, Note 2, that when calculating its PS/FT Demand Charge the TBO Unit Rate of $0.0165 and the Zone 3 Electric Power Unit Rate of $0.0118 (from Transco's Firm Transportation Service Rates, 9th Revised Second Revised Sheet No. 40) were used twice, and therefore, the PS/FT Demand Charge was overstated by $0.0283. The substitute tariff sheets correct this overstatement.

Additionally, ESNG is refiling its Fifth Revised Sheet No. 7 due on the final tariff sheet. ESNG on its redlined copy of Fifth Revised Sheet 7, in its original filing, changed from Fourth Revised Sheet No. 7 to Fifth Revised No. 7, but failed to change the pagination number on its final tariff sheet. Included in this filing is a properly paginated Sheet No. 7.

ESNG states that copies of the filing have been served upon its jurisdictional customers 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 Rules 18 CFR 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 7, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8435 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–282–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

March 31, 1995.

Take notice that on March 24, 1995, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP95–282–000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to upgrade a delivery point and to abandon a delivery point both located in Pinal County, Arizona under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso proposes to upgrade the J. A. Roberts (S–25) Meter Station (Roberts Station). Southwest informed El Paso that the upgrade of the Roberts Station was necessary since the gas demand on its distribution system has increased and additional continued growth is anticipated. The Roberts Station is located near milepost 3.3 (Section 10, Township 6 South, Range 7 East) on El Paso's 6″ O.D. Superior Line and currently delivers natural gas to Southwest for residential and commercial usages. As part of the upgrading, Southwest will construct approximately 2,700 feet of 4½″ O.D. pipe and regulation equipment on the existing, previously disturbed right-of-way for connecting a segment of its distribution system to the Roberts Station. El Paso will replace the existing 2″ O.D. senior orifice meter run with a 2″ O.D. turbine meter run with appurtenances, thereby making the Roberts Station capable of a wider range of measurement capability.

As a result of upgrading the Roberts Station, El Paso proposes to abandon by removal the Evaristo Cabanillas (S–23) Tap (Cabanillas Tap). The Cabanillas Tap is located near milepost 3.9 (Section 10, Township 6 South, Range 7 East) on El Paso's 6″ O.D. Superior Line and provides service to Southwest for residential and commercial usages. Metering and distribution services are provided by Southwest from the Cabanillas tap. Southwest has rendered the Cabanillas Tap as unnecessary since the Roberts Station upgrading will provide sufficient gas volumes to serve the Cabanillas Tap customers. El Paso will abandon the Cabanillas Tap by removing one 1″ O.D. tap and valve assembly with appurtenances and regulation equipment. All salvageable materials will be reused and all abandonment and removal activities will be limited to the existing, previously disturbed right-of-way.

El Paso stated that providing gas service from only the proposed upgraded Roberts Station would simplify operations for both Southwest and El Paso and would result in a savings in operation and maintenance expenses but still maintain throughput requirements. The total estimated cost for upgrading plus respective overhead and contingency fees is $48,500, but Southwest has agreed to reimburse El Paso.

With the upgrading of the Roberts Station, Southwest will be able to consolidate its receipt of natural gas from El Paso at a point where deliveries are needed the most, and in turn, permit abandonment of the unnecessary Cabanillas Tap. Southwest will use the gas to satisfy residential and residential space heating requirements, and commercial and commercial space heating requirements in the Central Arizona College area and in the City of Coolidge, Arizona and environs.

El Paso states that the proposed firm delivery of natural gas to Southwest at the Roberts Station is within certificated entitlement and will not have a negligible effect upon El Paso's peak day and annual deliveries and will be done without detriment or disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8434 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–159–001]

Florida Gas Transmission Company; Notice of Compliance Filing

March 31, 1995.

Take notice that on March 29, 1995, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

Substitute Original Sheet No. 125A

On February 10, 1995, FGT filed a tariff sheet containing provisions for the disposition of Unauthorized Gas delivered to its system. Subsequently, on March 14, 1995 the Commission issued its Order Conditionally Accepting Tariff Sheet (March 14 Order) subject to FGT making revisions to (1) provide a minimum of 24-hours notice to shippers prior to assessing a penalty and to allow shippers to correct the unauthorized tender before becoming subject to the penalty of losing the gas; (2) delete language applying Unauthorized Gas provisions retroactively; (3) specifically state the disposition of Unauthorized Gas revenues and (4) state that Unauthorized Gas will not encompass imbalance volumes and that Unauthorized Gas is any volume of gas received at a point for which there is no transportation nomination by any shipper and that, if any volume is nominated at a point, then Unauthorized Gas provisions do not apply. FGT states that the instant filing is made in compliance with the March 14 Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 7, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8436 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2318, 2482, 2616, 2539, 2554, 2385]

Niagara Mohawk Power Corp., et al.; Notice of Public Scoping Meetings

March 31, 1995.

The Federal Energy Regulatory Commission (Commission) has received applications for new licenses (relicenses) for the existing projects operated by the Niagara Mohawk Power Corporation (NiMo), Moreau Manufacturing Corporation, and Finch Pruyn, Incorporated in the Hudson River Basin in New York. The projects include eight developments. The projects and developments are: School Street Project No. 2539; Hoosic Project No. 2616 (Schaghticoke and Johnsonville developments); Hudson River Project No. 2482 (Sherman Island and Spier Falls developments); Glens Falls Project No. 2385; Feeder Dam Project No. 2554; and E.J. West Project No. 2318.

Upon review of the applications, supplemental filings, agency comments and intervenor submittals, the Commission staff concluded that, given the location and interaction of the projects, we will proceed with scoping for a Multiple Project Environmental Impact Statement (MEIS) on the Hudson River. If determined appropriate after scoping, we will prepare separate Environmental Assessments (Eas) for the School Street and the Hoosic (Schaghticoke and Johnsonville developments) projects and a MEIS for the remaining E.J. West, Hudson River (Sherman Island and Spier Falls developments), Glens Falls, and Feeder Dam projects, that describe and evaluate the probable impacts of the applicant's proposals and alternative for the projects.

One element of the National Environmental Policy Act (NEPA) process is scoping. Scoping activities are initiated early to:

- Identify reasonable alternative operational procedures and environmental enhancement measures that should be evaluated in the documents;
- Identify significant environmental issues related to the operation of the existing projects;
- Determine the depth of analysis for issues that will be discussed in the documents; and
- Identify resource issues that are of lesser importance and, consequently, do not require detailed analysis.

Scoping Meetings

Commission staff will conduct four public meetings for the Hudson River Multiple Project EIS (MEIS). All interested individuals, organizations, and agencies are invited to attend either or all of the planned meetings and help staff identify the scope of environmental issues that should be analyzed in the NEPA documents.

The first scoping meeting, primmarily for agencies and covering all projects, will be held at 9:00 AM on Tuesday, April 25, 1995, at the William K. Sanford Town Library, 629 Albany Shaker Road, Loudonville, New York.

The first evening scoping meeting, primarily for the public and directed at the School Street Project, will be conducted at 7:00 PM on Tuesday, April 25, 1995, at Cohoes High School, Tiger Circle, Cohoes, New York.

The second evening meeting, directed at the Hoosic Project, will be held at 7:00 PM on Wednesday, April 26, 1995, at Mechanicville High School, Kniskern Avenue, Mechanicville, New York.

The third evening meeting, directed at the Glens Falls, Feeder Dam, Hudson, and E.J. West projects, will be held at 7:00 PM on Thursday, April 27, 1995, at Glens Falls Senior High School, 10 Quade Street, Glens Falls, New York.

Procedures

The meetings, which will be recorded by a stenographer, will become part of the formal record of the Commission's proceeding on the MEIS. Individuals presenting statements at the meeting need to sign in before the meeting starts and to identify themselves for the record.

Concerned parties are encouraged to speak during the public meetings. Speaking time allowed for individuals will be determined before the meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Scoping Meeting Objectives

At each scoping meeting, the staff will:

- Summarize the environmental issues tentatively identified for analysis in the documents;
- Identify resource issues that the staff believes are of lesser importance and, therefore, do not require detailed analysis;
- Solicit from the meeting participants all available information, especially quantifiable data, concerning significant local resources; and
- Encourage statements from experts and the public on issues that should be analyzed in the NEPA documents.

Information Requested

Federal and state resource agencies, local government officials, interested groups, area residents, and concerned individuals are requested to provide any information they believe will assist the Commission staff to analyze the environmental impacts associated with relicensing the projects. The types of information sought include the following:

- Data, reports, and resource plans that characterize the baseline physical, biological, or social environments in the vicinity of the projects.
- Information and data that helps staff identify or evaluate significant environmental issues.

Scoping information and associated comments should be submitted to the Commission no later than 60 days after the date of this notice. Written comments should be provided at the scoping meeting or mailed to the Commission, as follows: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All filings sent to the Secretary of the Commission should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page:

FERC No. 2318, 2482, 2554, 2385, 2616, and 2539
Hudson River Multiple Project EIS and Eas

Intervenors and interceders (as defined in 18 CFR 385.2010) who file documents with the Commission are reminded of the Commission's Rules of Practice and Procedure requiring them to serve a copy of all documents filed with the Commission on each person whose name is listed on the official service list for this proceeding.

For further information, please contact Edward R. Meyer at (202) 208–7998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8431 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–215–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 31, 1995.

Take notice that on March 29, 1995, Texas Gas Transmission Corporation

(Texas Gas), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of April 30, 1995:

Original Sheet No. 226J
Original Sheet No. 226K
Original Sheet No. 226L
Original Sheet No. 226M
Original Sheet No. 226N
Original Sheet No. 226O

Texas Gas states that the tariff sheets are being filed as a limited Section 4(e) filing to effectuate direct billing of Texas Gas's Account No. 191 balance pursuant to § 33.2 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The filing reflects activity affecting Texas Gas's pre-November 1, 1993, unrecovered purchased gas costs, which were actually paid between the period August 1, 1994, through March 31, 1995, resulting in a balance of approximately $6.5 million. Texas Gas requests that the tariff sheets become effective April 30, 1995.

Texas Gas states that the copies of the revised tariff sheets are being mailed to Texas Gas's affected former jurisdictional sales customers and interested state commissions.

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, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests should be filed on or before April 7, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–8437 Filed 4–5–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 29, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0395.
Expiration Date: 03/31/98.
Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.
FCC Form No.: FCC Report 43–02.
Estimated Annual Burden: 48,000 total annual hours; 899 hours per response.
Description: ARMIS is needed to administer the Commission's accounting, jurisdictional separations, access charges, and joint cost rules and rules to analyze revenue requirements, and rate of return, service quality and infrastructure development. It collects financial and operational data from all Tier 1, Class A local exchange carriers with annual revenues over $100 million and carriers who elect incentive regulation. The Common Carrier Bureau, under delegated authority, released an Order on February 2, 1995 that modified FCC Report 43–02. FCC Report 43–02 provides the annual financial operating results of the carriers' activities for every account in Part 32, Uniform System of Accounts for Telecommunications Companies. The Common Carrier Bureau, under delegated authority, released an Order on February 2, 1995 that modified FCC Report 43–02. FCC Report 43–02 is revised to: increase the number of rows for reporting data for certain accounts in Table 1–7, Donations or Payments for Services Rendered by Persons Other than Employees; (2) add three new tax accounts to Table B–1, Balance Sheet Accounts; and (3) make a number of additional content and format revisions. Copies of the revised report are available upon request.

OMB Control No.: 3060–0513.
Expiration Date: 03/31/98.
Title: ARMIS Joint Cost Report.
Form No.: FCC Report 43–03.
Estimated Annual Burden: 30,000 total annual hours; 200 hours per response.
Description: FCC Report 43–03 contains financial and operating data. The Commission uses it to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues. The Common Carrier Bureau, under delegated authority, revised the FCC Report 43–03 on February 2, 1995 to delete the ''N/A'' in all columns for Account 5230, Directory revenues, to allow carriers to report nonregulated revenues. Copies of the revised report are available upon request.

OMB Control No.: 3060–0536.
Expiration Date: 02/29/96.
Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.
FCC Form No.: FCC 431.
Description: FCC Form 431 is used in implementing the shared-funding program for the recovery of interstate telecommunications relay services (TRS) costs. All common carriers must contribute to the TRS Fund and complete FCC 431 form. The information is used to administer the program. The 1995 edition of the form is being printed. A Public Notice will be issued when the form is available for public use.

OMB Control No.: 3060–0411.
Expiration Date: 03/31/98.
Title: Formal Complaints Against Common Carriers—Sections 1.720–1.735.
Estimated Annual Burden: 7,600 total annual hours; 10 hours per response.
Description: Section 208 of the Communications Act of 1934, 47 U.S.C. Section 208, provides that any person may file a complaint with the FCC regarding acts or omissions of common carriers subject to the Communications Act. Information filed pursuant to 47 CFR 1.720 et. seq. is provided either with or in response to a formal complaint. The information is used to resolve a complaint and determine whether a violation of the Communications Act or the Commission's rules has occurred. Affected respondents are complainants and defendant common carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–8400 Filed 4–5–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirements Being Reviewed By The Federal Communications Commission For Extension Under Delegated Authority 5 CFR 1320.9

March 30, 1995.

The Federal Communications Commission is reviewing the following information collection requirement for possible 3-year extension under delegated authority 5 CFR 1320.9, authority delegated to the Commission by the Office of Management and Budget (OMB) on October 6, 1994. This collection was previously approved by

OMB and is unchanged. Public comments are invited on this collection for a period ending [thirty days from the date of publication in the Federal Register.] Persons wishing to comment on this information collections should contact Dorothy Conway, Federal Communications Commission, 1919 M Street NW, Room 242–B, Washington, DC 20554. You may also send comments via Internet to DConway@fcc.gov. Upon approval FCC will forward supporting material and copies of these collections to OMB.

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800. For further information contact Dorothy Conway, Federal Communications Commission, (202) 418–0217.

OMB Number: 3060–0430.

Title: Section 1.1206 non-restricted proceedings, ex parte presentations generally permissible but subject to disclosure.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 300 responses; 30 minutes burden per response; 400 hours total annual burden.

Needs and Uses: In accordance with the Commission's current ex parte rules, certain presentations made to decision-making personnel in non-restricted proceedings must be made available for viewing by all the parties to the proceeding. The parties in non-restricted proceedings use information regarding ex parte presentations to prepare responses to the matters raised in the documents. The availability of ex parte materials ensures that the Commission's decisional processes are fair, impartial and comport with the concept of due process in that all parties can know of and respond to the arguments made to decision-making officials.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–8401 Filed 4–5–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

March 31, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0332.

Title: Section 76.614 Cable television system regular monitoring.

Form No.: N/A

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 561,200 annual responses; .017 hours burden per response; 11,638 hours total annual burden.

Needs and Uses: Section 76.614 requires that cable television systems operating on aeronautical frequencies which were requested or granted for use after November 30, 1994, provide for a program of regular monitoring for signal leakage and maintain a log showing the date and location of each leakage source identified, the date on which the leak was repaired and the probable cause of the leak.

OMB Number: 3060–0089.

Title: Application for Land Radio Station Authorization in the Maritime Services.

Form No.: FCC Form 503.

Action: Extension of a currently approved collection.

Respondents: Individual or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,926 annual responses; 45 minutes burden per response; 2,195 hours total annual burden.

Needs and Uses: FCC rules require that applicants file FCC Form 503 when applying for a new station or when modifying an existing land radio station in the Maritime Mobile Service or an Alaska Public Fixed Station. The data is necessary to evaluate a request for station authorization in the Maritime Services or an Alaska Public Fixed Station, to issue the licenses, and to update the database.

OMB Number: 3060–0149.

Title: Part 63 - Section 214 Application and Supplemental Information Requirements (Sections 63.01–63.601).

Form No.: N/A

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 510 annual responses; 13.37 hours burden per response; 6,280 hours total annual burden.

Needs and Uses: Section 214 requires that the FCC review the establishment, lease, operations, and extension of channels of communications by interstate common carriers. These carriers earn a rate of return based on their plant and facilities investments. The more they invest in plant and facilities the greater their revenue requirement. Thus, one of the marjor reasons Section 214 was enacted was to ensure against unnecessary duplication of plant and facilities. The other reason for Section 214 was to regulate which entities should be allowed to provide common carrier services and which services should be allowed to be terminated. The information in applications by dominate carriers is used by the Commission to determine if the facilities are needed. The information in the semi-annual reports of the non-dominant carriers is used to monitor the growth of the networks and the availability of common carrier services in this segment of the telecommunications market.

OMB Number: 3060–0128.

Title: Application for General Mobile Radio Service and Interactive Video Data Service.

Form No.: FCC Form 574.

Action: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,970 responses; 30 minutes burden per response; 1,485 hours total annual burden.

Needs and Uses: This form is filed by applicants in the General Radio Service

and Interactive Video Data Service to request an authorization or to modify an existing one. This data is used to determine eligibility, for rule making proceedings, enforcement purposes and for resolving treaty obligations. Data is vital to maintain database and issue authorizations.

OMB Number: 3060–0064.

Title: Application for Station Authorization in the Private Operational Fixed Microwave Radio Service.

Form No.: FCC Form 402.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Frequency of Response: On Occasion.

Estimated Annual Burden: 7,619 responses: 6 hours and 10 minutes burden per response; 46,978 hours total annual burden.

Needs and Uses: FCC Form 402 is used to apply for a new, modified or renewed station authorization for Private Operational Fixed Microwave stations. The technical data is necessary to evaluate a request for Microwave station authorization, to coordinate that request, and to provide interference protection if the request is granted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–8459 Filed 4–5–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Amendment to an Existing System of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of amendment to an existing system of records—''Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System''.

SUMMARY: As part of an ongoing examination of the FDIC's systems of records, the ''Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System'' has been reviewed for compliance with the Privacy Act, 5 U.S.C. 552a. Numerous minor amendments have been made that will clarify and/or more accurately describe the following elements in this system of records: System location, storage, retrievability, safeguards, and system manager(s) and address.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Frederick N. Ottie, Attorney, Office of the Executive Secretary, FDIC, 550–17th Street NW., Washington, DC 20429, (202) 898–6679.

SUPPLEMENTARY INFORMATION: The FDIC's system of records entitled ''Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System'' is being amended to clarify and/or more accurately describe its contents. These modifications update language in the system location and the system manager(s) and address elements to reflect organizational changes within the FDIC. Additionally, since records are no longer stored in computerized files maintained on a contract basis with the National Association of Securities Dealers, Inc., that reference is deleted from the system location and retrievability elements. The language of the storage element is reworded to accommodate system maintenance on a mainframe computer system instead of a PC-based system. The retrievability element adds the use of dealer registration numbers and FDIC bank certificate numbers to facilitate retrieval of records in this system. Lastly, the safeguards element is amended to clarify that computerized records are accessed only by authorized personnel with password access.

Accordingly, the FDIC amends the ''Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System'' to read as follows:

FDIC 30–64–0016

SYSTEM NAME:

Municipal Securities Dealers and Government Securities Brokers/Dealers Personnel Records System. (Complete text appears at 53 FR 7399, March 8, 1988).

SYSTEM LOCATION:

Capital Markets and Administration Branch, Division of Supervision, FDIC, 550–17th Street, NW., Washington, DC 20429.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in electronic media.

RETRIEVABILITY:

Indexed by name, social security number, and dealer registration number or FDIC bank certificate number.

SAFEGUARDS:

File folders are stored in lockable metal file cabinets; computerized records are accessed only by authorized personnel with password access.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Capital Markets and Administration Branch, Division of Supervision, FDIC, 550–17th Street, NW., Washington, DC 20429.

* * * * *

Dated at Washington, DC, this 3rd day of April 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–8460 Filed 4–5–95; 8:45 am]

BILLING CODE 6714–01–P

Privacy Act of 1974; Amendment to an Existing System of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of amendment to an existing system of records—''Secondary Marketing Asset Prospect System'' (formerly ''Prospective Investor System'').

SUMMARY: As part of an ongoing examination of the FDIC's systems of records, the ''Prospective Investor System'' has been reviewed for compliance with the Privacy Act of 1974, 5 U.S.C. 552a. Numerous minor amendments have been made that will clarify and/or more accurately describe the following elements in this system of records: System name, system location, categories of individuals covered by the system, categories of records in the system, retention and disposal, and system manager(s) and address.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Frederick N. Ottie, Attorney, Office of the Executive Secretary, FDIC, 550–17th Street NW., Washington, DC 20429, (202) 898–6679.

SUPPLEMENTARY INFORMATION: The FDIC's system of records entitled ''Prospective Investor System'' is being amended to clarify and/or more accurately describe its contents. These modifications include changing the system name to the ''Secondary Marketing Asset Prospect System,'' and updating descriptions in the system location as well as in the system manager(s) and address elements to reflect organizational changes within the FDIC. Additionally, since system coverage only includes individuals who have submitted written notice (not oral notice) of an interest in purchasing (not an intent to purchase) assets, and since there is no qualification requirement for

individuals to be included in the system, existing language identifying categories of individuals covered by the system is amended to reflect those facts. In a similar vein, the description of categories of records in the system is amended to clarify that the system contains information identifying the general geographic location of loans or owned real estate that individuals may be interested in purchasing; that it also contains information relating to whether bids have been submitted on loan sales (but not owned real estate sales); and that it does not include additional information relating to actual bids. Lastly, the retention and disposal element is amended to clarify that backup tapes are maintained in off-line storage and that obsolete data is deleted or destroyed after 15 months.

Accordingly, the FDIC amends the ''Prospective Investor System'' to read as follows:

FDIC 30–64–0019

SYSTEM NAME:

Secondary Marketing Asset Prospect System. (Complete text appears at 52 FR 23602, June 23, 1987).

SYSTEM LOCATION:

Division of Depositor and Asset Services, FDIC, 550–17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted written notice of an interest in purchasing loans or owned real estate from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, and telephone number; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on loan sales.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records are generally maintained in computer discs and tapes in an on-line capacity until needed. Backup tapes are maintained in off-line storage. All records, including those in printout form, are periodically updated to reflect changes and maintained as long as needed. Obsolete data is deleted or destroyed after 15 months.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Depositor and Asset Services, FDIC, 550–17th Street NW., Washington, DC 20429.

* * * * *

Dated at Washington, DC, this 3rd day of April, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95– 8449 Filed 4–5–95; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

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 4 CFR part 540, as amended: Radisson Seven Seas Cruises, Inc., and Diamond Cruise, Inc., 600 Corporate Drive, Fort Lauderdale, Florida 33334.

Vessel: Radisson Diamond.

Dated: April 3, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–8458 Filed 4–5–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public in Demnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Radison Seven Seas Cruises, Inc. and Diamond Cruise, Inc., 600 Corporate Drive, Fort Lauderdale, Florida 33334.

Vessel: Radison Diamond.

Dated: April 3, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–8457 Filed 4–5–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2881

Name: T.G. International, Inc.

Address: 950 Threadneedle, Ste. 140, Houston, TX 77079

Date Revoked: March 8, 1995

Reason: Failed to furnish a valid surety bond.

License Number: 3365

Name: Jacky Maeder Ltd.

Address: 1414 Calcon Hook Rd, #204, Sharon Hill, PA 19079

Date Revoked: March 10, 1995

Reason: Surrendered license voluntarily.

License Number: 1241

Name: Randy International, Ltd.

Address: 590 Belleville Turnpike, #26, Kearny, NJ 07032

Date Revoked: March 10, 1995

Reason: Surrendered license voluntarily.

License Number: 3822

Name: Freight Brokers International, Inc.

Address: 1235 North Loop West, Ste. 601, Houston, TX 77008

Date Revoked: March 15, 1995

Reason: Failed to furnish a valid surety bond.

License Number: 3422

Name: The Myers Group (U.S.), Inc.

Address: 72 Lake Street, Rouses Point, New York 12979

Date Revoked: March 17, 1995

Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–8456 Filed 4–5–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

The Bank of New York Company Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 19, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of New York Company Inc., New York, New York; to acquire Related Guaranteed Corporate Partners, L.P., New York, New York, and thereby engage in making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as economic rehabilitation and development of low-income areas by providing housing, services or jobs for residents, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Union-Calhoun Investments, Ltd., Rockwell City, Iowa; to acquire Keith Insurance, Rockwell City, Iowa, and thereby engage in insurance agency activities in towns of less than 5,000 and tax preparation, pursuant to § 225.25(b)(8)(iii) and (b)(21) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. New Era Bancorporation, Inc., Fredericktown, Missouri; to acquire up to an additional 6.54 percent (for a total of 9.99 percent) of the voting shares of St. Francois County Financial Corp., Farmington, Missouri, and thereby acquire St. Francois County Savings and Loan Association, Farmington, Missouri, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y, and in the sale as agent of credit-related insurance, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 31, 1995.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 95–8405 Filed 4–5–95; 8:45 am]

BILLING CODE 6210–01–F

Gerauld Blaylock, 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 April 19, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Gerauld, Donna, William, and Margaret Hopkins, and Amy (Hopkins) Blaylock, Downers Grove, Illinois; to acquire an additional 22.39 percent (for a total of 24.96 percent) of the voting shares of Finest Financial Corporation, Pelham, New Hampshire, and thereby indirectly acquire Pelham Bank and Trust, Pelham, New Hampshire.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Hope Harris Johnson, Slocomb, Alabama; to acquire 62.9 percent of the voting shares of Wiregrass Bancorporation, Inc., Ashford, Alabama, and thereby indirectly acquire Barbour County Bank, Eufaula, Alabama.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Douglas L. and Rebecca McClure, Colorado Springs, Colorado; to acquire an additional 4.66 percent (for a total of 25.23 percent) of the voting shares of First Flo Corporation, Florence, Colorado, and thereby indirectly acquire Rocky Mountain Bank & Trust, Florence, Colorado.

Board of Governors of the Federal Reserve System, March 31, 1995.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 95–8406 Filed 4–5–95; 8:45 am]

BILLING CODE 6210–01–F

Buerge Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than May 1, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Buerge Bancshares, Inc., Joplin, Missouri; to acquire 100 percent of the voting shares of Peoples State Bank, Claremore, Oklahoma.

Board of Governors of the Federal Reserve System, March 31, 1995.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 95–8407 Filed 4–5–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Proposed Port of Entry, Located at Pacific Highway, Blaine, Whatcom County, WA; Notice of Availability for a Draft Environmental Impact Statement

The general Services Administration (GSA) hereby gives notice a Draft Environmental Impact Statement (DEIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended. The DEIS was prepared for the proposed expansion of the Port of Entry located at Pacific Highway, Blaine, Whatcom County, Washington. The DEIS is being made available March 31, 1995. GSA is the lead Federal agency for the preparation of the EIS. The DEIS evaluates the proposed action, the no-action, and three (3) design alternatives.

Written comments should be as specific as possible and may address the adequacy of the EIS, the merits of the alternatives discussed, the impacts identified, and/or mitigation measures recommended and be sent no later than May 15, 1995 to GSA's EIS subconsultant, Berger/ABAM, at the following address: 33301 Ninth Avenue South, Federal Way, WA 98003.

Comments will also be accepted at a public meeting to be held on April 19, 1995, at the Blaine Senior Center, 763 ''G'' Street, Blaine, Washington 98230. The meeting will be held from 5:30 p.m. to 7:30 p.m.

Representatives of GSA and Berger/ABAM will receive comments from interested parties regarding the proposed project, the environmental analysis, and proposed mitigation measures. All comments received will be made a part of the administrative record for the DEIS and will be evaluated as part of the Final EIS review process.

For further information contact Donna M. Meyer, Regional Environmental Program Officer, General Services Administration, Public Buildings Service (10PL), 400 15th Street SW., Auburn, Washington 98001–6599, or at (206) 931–7675.

Dated: March 24, 1995.

L. Jay Pearson,

Regional Administrator (10A).

[FR Doc. 95–8414 Filed 4–5–95; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 14⅛ percent for the quarter ended March 31, 1995. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: March 30, 1995.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 95–8397 Filed 4–5–95; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 95N–0082]

Animal Drug Export; Deslorelin Acetate Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Peptide Technology Ltd. has filed an application requesting approval for the export of the animal drug Ovuplant™ (deslorelin acetate) to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Gregory S. Gates, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Peptide Technology Ltd., 4–10 Inman Rd., Dee Why 2099, Australia, has filed application number 8019 requesting approval for the export of the animal drug Ovuplant™ (2.1 milligrams of deslorelin per implant, as the acetate) to Canada. The drug is a subcutaneous implant providing sustained release of a gonadotropin releasing hormone analog. It is indicated for inducing ovulation in the oestrus mare. The application was received and filed in the Center for Veterinary Medicine on March 20, 1995,

which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 17, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: March 24, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–8451 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95D–0052]

Changes To Be Reported for Product and Establishment License Applications; Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing a guidance document entitled ''Changes to be Reported for Product and Establishment License Applications; Guidance.'' The guidance document is intended to provide manufacturers of licensed biological products guidance on changes in manufacturing procedures and establishments which may be implemented with and without prior approval by the Director, Center for Biologics Evaluation and Research (CBER). This document does not apply to manufacturers of Whole Blood, blood components, Source Leukocytes, and Source Plasma, and it does not address labeling changes. By following this guidance document, manufacturers of licensed biologicals may, in some instances, reduce their reporting burden and facilitate implementation of certain changes.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. Two copies of any comments are to be submitted except that individuals may submit one copy. A copy of the guidance document and received comments are available in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: Under § 601.12 *Changes to be reported* (21 CFR 601.12), manufacturers are required to report important proposed changes in location, equipment, management and responsible personnel, or in manufacturing methods and labeling, of any product for which a license is in effect or for which an application for license is pending, to the Director, CBER. Such reports are to be filed by the manufacturer not less than 30 days in advance of the time that such changes are intended to be made except in case of an emergency. Proposed changes in manufacturing methods and labeling may not become effective until notification of acceptance is received from the Director, CBER.

Reporting changes under § 601.12 represents a significant workload for the industry and the agency. In addition, regulated industry has expressed concern about delays in implementing changes and inconsistencies in reporting requirements for product license applications (PLA's), establishment license applications (ELA's), and new drug applications (NDA's). To reduce the reporting burden on manufacturers of biological products and to facilitate the approval process, FDA is issuing this guidance document, which describes CBER's current interpretation of § 601.12(a) and (b).

The guidance document is not intended to affect the reporting requirements currently specified in § 601.12, but to provide clarifying descriptions of the types of changes that are currently considered to be ''important'' within the meaning of that section. In addition, the document clarifies the types of changes which may be implemented 30 days after submission of a supplement and those which must await approval of a supplement prior to implementation. Thus, the guidance document outlines three categories for reporting changes, based on the importance and nature of the changes. The document lists examples of changes that would fall into each category.

This document does not apply to changes in manufacturing processes and facilities associated with the manufacture of Whole Blood, blood components, Source Leukocytes, or Source Plasma. CBER is currently evaluating reporting requirements in those areas. In addition, the guidance document does not address labeling changes. However, in the **Federal Register** of August 3, 1994 (59 FR 39570), FDA published a notice of availability for the revised Office of Establishment Licensing and Product Surveillance Advertising and Promotional Labeling Staff (APLS) Procedural Guidance Document. The APLS Procedural Guidance document details the approach that manufacturers and distributors should follow in submitting advertising and promotional material for review by CBER. The APLS Procedural Guidance Document also provides guidance on CBER's current interpretation of § 601.12 as it applies to reporting important proposed changes in labeling; specifically, promotional labeling of biological products for which a license is in effect or for which an application for a license is pending.

As with other guidance documents, FDA does not intend this document to be all inclusive. The document is intended to provide information and does not set forth requirements. Manufacturers may follow the guidance or may choose to use alternative procedures even though they are not provided in this document. If a manufacturer chooses to use alternative procedures, that manufacturer may wish to discuss the matter further with CBER to prevent expenditure of resources on activities that FDA may later determine to be unacceptable.

This guidance document is not binding on either FDA or licensed manufacturers of biological products and does not create or confer any rights, privileges, or benefits for or on any person.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance document. Received comments will be considered to determine if further revision to the guidance document is necessary.

The text of the guidance document follows:

Food and Drug Administration, Center for Biologics Evaluation and Research (CBER), Changes to be Reported for Product and Establishment License Applications; Guidance

I. Introduction and Background

A significant number of supplements to approved biological product and establishment license applications submitted to CBER during an average year involve changes which fall under § 601.12 *Changes to be reported* (21 CFR 601.12).

Under this regulation, important proposed changes in location, equipment, management and responsible personnel, or in manufacturing methods and labeling, are required to be reported to CBER not less than 30 days in advance of the time such changes are intended to be made (§ 601.12(a)). Proposed changes in manufacturing methods and labeling may not become effective until notification of acceptance is received from the Director, CBER (§ 601.12(b)).

This document is not intended to affect the reporting requirements in § 601.12, but to provide clarifying descriptions of those requirements. This guidance does not apply to manufacturers of Whole Blood, blood components, Source Leukocytes, and Source Plasma. Guidance on reporting requirements in those areas is currently under evaluation within CBER. In addition, this document does not address labeling changes. For guidance on the submission of advertising and promotional material, see the Office of Establishment Licensing and Product Surveillance Advertising and Promotional Labeling Staff (APLS) Procedural Guidance Document (August 1994).

To facilitate the approval process, CBER performed a review of the types of changes being reported and assessed the relative impact of each change on product purity, potency, and safety. Results of this analysis have provided CBER the rationale for describing three categories of changes based on potential effect on product safety, purity, and potency, with each category associated with a different notification mechanism. In general, the types of changes for which CBER recommends less stringent reporting represent changes which, for the most part, have not been associated with demonstrable effects on product purity, potency, or safety, and/or which are readily amenable to on-site scrutiny during inspection of the production facility. In many instances, manufacturers will need to evaluate changes addressed in the three categories using validated standard operating procedures (SOP's) or specifications.

Regardless of whether a supplement is required to be filed, the manufacturer in making such changes must conform to the current good manufacturing practice (CGMP) requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(B)) and the regulations in 21 CFR parts 210 and 211. Changes affecting the method of manufacture require validation under the CGMP regulations. In addition, manufacturers must comply with the recordkeeping requirements under the CGMP regulations and ensure that relevant records are readily available for FDA inspection.

This document identifies and categorizes the types of changes in manufacturing processes and establishments which may be implemented with and without prior approval by CBER.

This guidance document is not binding on either FDA or licensed manufacturers of biological products and does not create or confer any rights, privileges, or benefits for or on any person. It does, however, describe CBER's current interpretation of § 601.12. Where this document reiterates a requirement imposed by statute or regulation, the force and effect as law of the requirement is not changed in any way by virtue of its inclusion in this document.

Section A of this document contains general definitions of each category of change as it pertains to notification or reporting requirements outlined in § 601.12(a) and (b). This section also defines a Periodic Report for Category I changes. Section B of this document provides instruction on sending submissions to CBER. Section C of this document augments these definitions with selected examples of modifications appropriately falling under each category. Section D of this document contains guidance on categorizing proposed changes which may not be listed in section C. Section E of this document discusses the kind of information the agency is asking manufacturers to submit in a Periodic Report.

II. Guidance and Rationale

A. Definitions

General definitions of each category of reporting changes are as follows:

1. Category I—Change(s) for Which No Supplement Submission is Required and Which May be Described in a Periodic Report

This category includes modifications to procedures, process parameters, components, manufacturing methods, reagents, equipment and facilities which do not rise to the level of the ''important'' changes required to be reported under § 601.12. These are changes that are designed to tighten control on the production process, or have not been associated with adverse impact on product safety, purity or potency. Manufacturers should qualify and, as necessary, validate such changes before implementing them. These changes should be shown not to affect the integrity of the product. For this category, the manufacturer generates and retains all relevant data defining (and, as necessary, validating) changes which are implemented. In order to expedite the agency's review of changes, such data should be readily accessible for FDA-establishment inspections. The agency recommends that the firm notify CBER in a Periodic Report (see description below) of the changes and dates of implementation.

2. Category II—Change(s) Requiring a Supplement Submission and Which May be Implemented Prior to CBER Approval

This category includes modifications to location, equipment, management, and personnel that do not change manufacturing methods, but have the potential to adversely affect product safety, purity, and potency. For these changes, the manufacturer should submit a standard supplement, accompanied by all relevant supporting data, with a request to implement not less than 30 days following the supplement's receipt by CBER's Document Control Center. Such supplements should be clearly marked ''Category II Supplement, Changes to be Implemented'' at the top of the cover letter. CBER will confirm the submission and its receipt date in the reference number assignment letter. CBER intends to follow relevant application review policies in assigning supplement review.

CBER will process Category II changes as establishment or product license application supplements and will take official action on such supplements on, before, or after this 30-day period. If CBER officials do not contact the sponsor via telephone or written correspondence within 30 days following the documented receipt date to question or reject the ''Category II'' status, the manufacturer may implement the change. CBER may communicate with the firm during this 30 day period for clarification or to advise that the change is considered to be a Category III supplement (see description below).

Manufacturers should be aware that Category II changes are implemented subject to agency approval. The agency may refuse to approve a supplement for a change that has already been implemented. In assessing a manufacturer's plans to correct a problem, the agency intends to consider the manufacturer's reasons for making the change and the alternatives available to the manufacturer, among other things. If the circumstances warrant, the agency may require the change to be immediately discontinued. When circumstances permit, it is FDA's intent to allow manufacturers to correct a problem with minimal expense and without unnecessary waste.

3. Category III—Change(s) Which Require CBER Approval Prior to Implementation

This category includes changes in manufacturing methods and requires manufactures to submit all relevant supporting documentation and await CBER's approval prior to implementation. As with Category II submissions, CBER intends to follow relevant application review policies in assigning supplement review.

4. Periodic Reports

A Periodic Report is a voluntary written report submitted every 6 months listing and briefly describing Category I changes and providing the date of implementation of such changes. Reports should include separate descriptions of EACH change affecting a licensed product and should identify for each change the specific establishment location involved. (See section E of this document for requested information.)

B. Where to Submit Supplements and Periodic Reports

Three copies of all supplements and periodic reports should be submitted to the Center for Biologics Evaluation and Research (HFM–99), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448.

C. Selected Examples

1. Category I

CBER currently considers the following examples to be changes that will not ordinarily rise to the level of the ''important'' changes required to be reported under § 601.12. These changes need not be submitted to CBER prior to implementation and may be submitted in a periodic report as ''Category I changes.'' This listing provides representative samples of Category I changes and is not all inclusive.

i. Change in purchasing source of approved final fill components (stoppers, vials, seals) that meet established specifications. This does not include change(s) in composition of such components or suppliers of ancillary chemicals and drug products such as diluents.

ii. Change in harvesting and/or pooling procedures which does not affect method of manufacture, recovery, storage conditions, sensitivity of detection of adventitious agents, or production scale; e.g., collection in smaller quantities to improve process efficiency.

iii. Changes in cell inoculum; e.g, mode of expansion (attached versus suspension; bioreactor versus spinner), cell density, staging of culture. This excludes viral products; e.g., vaccines and in vitro diagnostic kits.

iv. Change in storage conditions of reference standard or panel based on stability data generated with an FDA-approved protocol.

v. Extension of dating period for in-house reference standards, based on real-time data, according to an FDA-approved protocol.

vi. Replacement of inhouse reference standard or reference panel (or panel member) according to FDA-approved standard operating procedures (SOP's) and specifications.

vii. Tightening of specifications for reference standard or lot release analyses.

viii. Establishment of new Working Cell Bank derived from previously approved Master Cell Bank according to an FDA-approved SOP.

ix. Narrowing (tightening) of specifications for intermediates and endproducts to provide greater assurance of product purity and potency.

x. Use of alternative storage containers for intermediates, with no change in sterility, depyrogenation status, or composition of container.

xi. Change in storage conditions of inprocess intermediates based on data from an FDA-approved stability protocol (labeling not affected).

xii. Change in bulk pool size for formulation without process scale-up.

xiii. Batch size changes for ancillary components (specimen diluents, positive and/or negative controls, substrate buffers, etc.) where all equipment contact surfaces remain chemically identical to approved equipment.

xiv. Change in the number of vials per fill with no scale-up or impact on parameters defined in the environmental assessment.

xv. Change in shipping conditions (e.g., temperature, packaging, custody) based upon data derived from studies following an FDA-approved protocol.

xvi. Rework of biologic product which has failed final release testing using FDA-approved rework protocol. Note: Any lot of product subject to rework should be so noted on the product release protocol.

xvii. Change in stability test protocol to include more stringent parameters; e.g., additional assays, tightened specifications, etc.

xviii. Replacement of equipment with that of identical design and operating principle involving no change in process parameters.

xix. The following modifications of areas not used for production or storage of intermediate or finished product (such as testing laboratories, materials storage, warehouse, employee break areas, etc.):

(a) Addition of outside areas that do not adversely affect the product manufacturing area or utility systems;

(b) Expansion or reorganization of off-site support space that does not affect the product manufacturing areas;

(c) Modification to or relocation of support space within a product manufacturing facility that does not affect plant utility systems and flow patterns, or adversely affect product purity or environmental conditions (e.g., addition of half partitions or benches).

xx. The relocation of equipment within appropriate areas of approved facilities, not increasing risk to product purity or integrity of testing (e.g., relocation of fermentor in fermentation suite).

xxi. Upgrade in air quality, material, or personnel flow where product specifications remain unchanged. Involves no change in equipment or physical structure of production area.

xxii. Changes in personnel other than the Responsible Head (21 CFR 600.10) or individuals serving in a capacity of alternative or temporary Responsible Head.

2. Category II

CBER currently considers the following examples to be ''important'' proposed changes in location, equipment, management and responsible personnel. These changes must be reported pursuant to § 601.12(a) and meet the definition of a ''Category II Supplement.'' This listing provides representative samples of Category II changes and is not all inclusive.

i. Addition of back-up systems for manufacturing processes which are identical to the primary system and serve as an alternate resource (not expansion of capacity) within an approved production area.

ii. Upgrade to production air handling or water systems using like equipment and not affecting established specifications; e.g., removal of dead legs in water for injection (WFI) system. (Does not include replacement of parts or routine repair and maintenance (Category I).)

iii. Replacement of equipment with that of similar, but not identical, design and operating principle that does not affect the process methodology.

iv. Expansion of existing manufacturing support systems (WFI, heating, ventilation, and air-conditioning (HVAC)); e.g., adding an additional WFI loop.

v. Relocation of operations within the same production area of an approved facility with no change in equipment or room classification.

vi. Modification of an approved manufacturing area which does not adversely affect safety, purity or potency of product; e.g., adding new interior partitions or walls to increase control over the environment and replacing or adding new surfaces to enhance cleaning.

vii. Change in Responsible Head (21 CFR 600.10) or individuals serving in a capacity of alternative or temporary Responsible Head.

3. Category III.

CBER currently considers the following examples to be ''important'' proposed changes in manufacturing methods. These changes require CBER approval before they may be implemented under § 601.12(b), and meet the definition of a ''Category III Supplement.'' This listing provides representative samples of Category III changes and is not all inclusive.

i. Establishment of new Master Cell Bank.

ii. Change in inhouse reference standard or reference panel (panel member) resulting in modification of reference specifications.

iii. Establishment of alternate test method for reference standards, release panels, product intermediates, or endproduct.

iv. Replacement of existing test method with new procedure or method; e.g., change from radioimmunoassay (RIA) to enzyme-linked immunosorbent assay (ELISA).

v. Change in process parameters; e.g., growth cycle, chromatographic medium, process time and/or temperature, filtration process.

vi. Change in sequence of processing steps, including addition of processing step; e.g., viral removal or inactivation.

vii. Change in production scale (up or down) involving changes in equipment, process parameters, or process methodology.

viii. Change in chemistry or formulation of solutions used during processing.

ix. Changes in conjugation chemistry or process.

x. Change in composition of the biological product or ancillary components.

xi. Change in dosage form.

xii. Any change which results in detectable relaxing of product specifications and modification in potency, sensitivity, or specificity.

xiii. Change in fill volume (per vial) from an approved production batch size and/or scale.

xiv. Reprocessing of product without a previously approved reprocessing protocol.

xv. Change in stability testing program; e.g., substitution of analytical methods or potency assay, broadening of acceptance criteria, change in storage temperature, change in test algorithm.

xvi. Extension of dating period for intermediate or endproduct.

xvii. Change in storage conditions for licensed final product or intermediate based on real-time data from FDA-approved stability protocol (labeling affected).

xviii. The following changes in manufacturing location that affect process

conditions and thereby have the potential to affect product safety, purity, or potency:

(a) Use of a previously unapproved manufacturing area or facility;

(b) Change in air quality, water quality, material, or personnel flow for licensed product manufacturing areas.

(c) Change from single product manufacturing to multiple product manufacturing using same equipment and/or personnel.

(d) Renovation to physical structure that alters product, material, and/or personnel flow.

xix. Addition to or replacement of an FDA-approved manufacturing step performed under contract to a second facility.

D. Categorization of Proposed Changes

Before implementing a change which is not identified above or does not clearly fit into one of the defined categories, manufacturers should discuss the proposed change with CBER. If guidance is not sought, the change should be reported in the form of a Category III supplement, subject to CBER approval prior to implementation.

Requests for information regarding categorization of proposed changes not included in the above categories may be addressed to the Director of the appropriate applications Division within the Office with assigned product, or establishment, responsibility at the Center for Biologics Evaluation and Research (HFM–99), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448.

E. Information Requested for Category I Periodic Reports

FDA requests that manufacturers submit the following information for each Category I change in the order shown: (1) Name of the manufacturer; (2) the establishment license number; (3) the report dates (time period covered by the report); (4) the product(s) affected (list each one); (5) the change implemented, including: (a) A brief description and reason for the change and/or modification, (b) the establishment location involved, (c) the date the change was implemented, and (d) a cross-reference to the Approved Validation Protocol or Standard Operating Procedure, if applicable; and (6) the signature of the Responsible Head and the date signed.

Dated: March 31, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–8382 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0201]

Asahi Denka Kogyo K. K.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 3B4378) proposing that the food additive regulations be amended to provide for the safe use of sodium 2,2′-methylenebis(4,6-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food to include the use at temperatures up to and including retort conditions.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3092.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 29, 1993 (58 FR 40656), FDA announced that a food additive petition (FAP 3B4378) had been filed by Asahi Denka Kogyo K. K., c/o Japan Technical Information Center, Inc., 1002 Pennsylvania Ave. SE., Washington, DC 20003. The petition proposed to amend the food additive regulations in § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) to provide for the safe use of sodium 2,2′-methylenebis(4,6-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food to include the use at temperatures up to and including retort conditions. Asahi Denka Kogyo K. K. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7)

Dated: March 22, 1995.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–8515 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94F–0121]

BASF Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 3B4384) proposing that the food additive regulations be amended to provide for the safe use of hydroxypropyl acrylate and butanediol diacrylate as monomers in the production of acrylic polymers intended for use in food packaging adhesives.

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 25, 1994 (59 FR 19730), FDA announced that a food additive petition (FAP 3B4384) had been filed by BASF Corp., 9401 Arrow Point Blvd., suite 200, Charlotte, NC 28273. The petition proposed to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of hydroxypropyl acrylate and butanediol diacrylate as monomers in the production of acrylic polymers intended for use in food packaging adhesives. BASF Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 22, 1995.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–8516 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[BPO–130–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—Fourth Quarter 1994

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations and other **Federal Register** notices, and statements of policy that were published during October, November, and December of 1994 that relate to the Medicare and Medicaid programs. Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe. We are also providing the content of revisions to the Medicare Coverage Issues Manual published between October 1 and December 31, 1994. On August 21, 1989, we published the content of the Manual (54 FR 34555) and indicated that we will publish

quarterly any updates. Adding to this listing the complete text of the changes to the Medicare Coverage Issues Manual allows us to fulfill this requirement in a manner that facilitates identification of coverage and other changes in our manuals.

FOR FURTHER INFORMATION CONTACT: Margaret Cotton, (410) 966–5255 (For Medicare instruction information); Pat Prete, (410) 966–3246 (For Medicaid instruction information); Michael Robinson, (410) 966–5633 (For all other information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs, which pay for health care and related services for 38 million Medicare beneficiaries and 36 million Medicaid recipients. Administration of these programs involves (1) Providing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public; and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under authority granted the Secretary under sections 1102, 1871, and 1902 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** at least every 3 months a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month timeframe. Since the publication of our quarterly listing on June 12, 1992 (57 FR 24797), we decided to add Medicaid issuances to our quarterly listings. Accordingly, we are listing in this notice Medicaid issuances and Medicaid substantive and interpretive regulations published from October 1 through December 31, 1994.

II. Medicare Coverage Issues

We receive numerous inquiries from the general public about whether specific items or services are covered under Medicare. Providers, carriers, and intermediaries have copies of the Medicare Coverage Issues Manual, which identifies those medical items, services, technologies, or treatment procedures that can be paid for under Medicare. On August 21, 1989, we published a notice in the **Federal Register** (54 FR 34555) that contained all the Medicare coverage decisions issued in that manual.

In that notice, we indicated that revisions to the Coverage Issues Manual will be published at least quarterly in the **Federal Register**. We also sometimes issue proposed or final national coverage decision changes in separate **Federal Register** notices. Readers should find this an easy way to identify both issuance changes to all our manuals and the text of changes to the Coverage Issues Manual.

Revisions to the Coverage Issues Manual are not published on a regular basis but on an as-needed basis. We publish revisions as a result of technological changes, medical practice changes, responses to inquiries we receive seeking clarifications, or the resolution of coverage issues under Medicare. If no Coverage Issues Manual revisions were published during a particular quarter, our listing will reflect that fact.

Not all revisions to the Coverage Issues Manual contain major changes. As with any instruction, sometimes minor clarifications or revisions are made within the text. We have reprinted manual revisions as transmitted to manual holders. The new text is shown in italics. We will not reprint the table of contents, since the table of contents serves primarily as a finding aid for the user of the manual and does not identify items as covered or not.

III. How to Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or coverage decisions published during the timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) and the notice published March 31, 1993 (58 FR 16837), and those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into five addenda. Addendum I identifies updates that changed the Coverage Issues Manual. We published notices in the **Federal Register** that included the text of changes to the Coverage Issues Manual. These updates, when added to material from the manual published on August 21, 1989 constitute a complete manual as of December 31, 1994. Parties interested in obtaining a copy of the manual and revisions should follow the instructions in section IV of this notice.

Addendum II identifies previous **Federal Register** documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.

Addendum III of this notice lists, for each of our manuals or Program Memoranda, a HCFA transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Addendum IV sets forth the revisions to the Medicare Coverage Issues Manual that were published during the quarter covered by this notice. For the revisions, we give a brief synopsis of the revisions as they appear on the transmittal sheet, the manual section number, and the title of the section. We present a complete copy of the revised material, no matter how minor the revision, and identify the revisions by printing in italics the text that was changed. If the transmittal includes material unrelated to the revised section, for example, when the addition of revised material causes other sections to be repaginated, we do not reprint the unrelated material.

Addendum V lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the date published, the Federal Register citation, the title of the regulation, the parts of the Code of Federal Regulations (CFR) which have changed (if applicable), the agency file code number, the ending date of the comment period (if applicable), and the effective date (if applicable).

IV. How to Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, Attn: New Order, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address indicated above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

C. Rulings

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We also sometimes publish Rulings in the **Federal Register**.

D. HCFA's Compact Disk-Read Only Memory (CD–ROM)

HCFA's laws, regulations, and manuals are now available on CD–ROM, which may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is contained on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.
- HCFA program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1993. The remaining portions of CD–ROM are updated on a monthly basis.

The CD–ROM disk does not contain Appendix M (Interpretative Guidelines for Hospices). Copies of this appendix may be reviewed at a Federal Depository Library (FDL).

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

V. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local FDL. Under the FDL program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Carriers Manual, Part 2—Program Administration (HCFA-Pub. 14–2) transmittal entitled ''Files Maintenance Program General'', use the Superintendent of Documents No. HE 22.8/6–2 and the HCFA transmittal number 127.

VI. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Copies can be purchased or reviewed as noted above.

Questions concerning Medicare items in Addenda III may be addressed to Margaret Cotton, Issuances Staff, Bureau of Program Operations, Health Care Financing Administration, Room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–5255.

Questions concerning Medicaid items in Addenda III may be addressed to Pat Prete, Medicaid Bureau, Office of Medicaid Policy, Health Care Financing Administration, Room 233 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–3246.

Questions concerning all other information may be addressed to Michael Robinson, Office of Regulations, Health Care Financing Administration, Room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966–5633.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: March 23, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Addendum I

This addendum lists the publication dates of the most recent quarterly listing of program issuances and coverage decision updates to the Coverage Issues Manual. For a complete listing, please refer to the listing in the January 3, 1995 quarterly notice (60 FR 132).

March 17, 1994 (59 FR 12610)

August 5, 1994 (59 FR 40038)

November 14, 1994 (59 FR 56501)

January 3, 1995 (60 FR 132)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS

[October Through December 1994]

Trans. No.	Manual/Subject/Publication Number
	Intermediary Manual **Part 2—Audits, Reimbursement** **Program Administration (HCFA–Pub. 13–2)** **(Superintendent of Documents No. HE 22.8/6–1)**
400	• Files Maintenance Program—General. Records Retention and Disposal Schedule. Retention of Claims Files Materials. Microfilming of Files Material. Intermediary—Federal Records Center Relations. Location of Federal Records Centers. Procedures for Transfer of Material to Federal Records Centers. Requesting Forms for Transfer and Return of Material from Federal Records Centers. Report of Medicare Records—Form HCFA–2556. Exhibits.
401	• Location of Federal Records Centers.
	Intermediary Manual **Part 3—Claims Process (HCFA–13–3)** **(Superintendent of Documents No. HE 22.8/6)**
1636	• Responsibility for Medicare Secondary Payer Outreach Program. Quarterly Supplement to Intermediary Workload Report (Form HCFA–1566A) General. Completing Quarterly Supplement to the Intermediary Workload Report, HCFA–1566A, Pages 1 and 2. Completing Quarterly Supplement to the Intermediary Workload Report, HCFA–1566A, Page 3. Completing Quarterly Periodic Interim Payment Report, HCFA–1566C—General.
1637	• Reporting Outpatient Surgery and Other Services. PPS Pricer Program. Provider-Specific Data Record Layout and Description.
1638	• Mammography Screening. Mammography Quality Standards Act.
1639	• Disallowance Form Letters HCFA–1954 and HCFA–1955. Explanation of Medicare Benefits Notice Specifications.
1640	• General Effect of Liability Insurance on Medicare Payment. Appeals Procedures for MSP Liability Overpayments.
1641	• Mammography Screening.
	Carriers Manual **Part 2—Program Administration (HCFA–14–2)** **(Superintendent of Documents No. HE 22.8/6–2)**
127	• Files Maintenance Program—General. Records Retention and Disposal Schedule. Retention of Claims Files Materials. Microfilming of Files Materials. Report of Medicare Records—Form HCFA–2556. Location of Federal Records Centers. Procedures for Transfer of Material to Federal Records Centers. Requesting Forms for Transfer and Return of Material from Federal Records Centers. Exhibits.
128	• Location of Federal Records Centers.
	Carriers Manual **Part 4—Professional Relations (HCFA-Pub. 14–4)** **(Superintendent of Documents No. HE 22.8/7–4)**
9	• Responsibility in the Medicare Secondary Payer Outreach Program.
10	• National Registry of Physicians/Health Care Practitioners/Group Practices-Medicare Provider Identifier (UPIN). Ongoing Data Collection On Physicians/Health Care Practitioners/Group Applications. Physicians/Health Care Practitioners/Group Practices Record-Required Information and Format. Maintaining Physicians/Health Care Practitioner/Group Practice Membership. Validation of Physicians/Health Care Practitioners/Group Practices Credentials, Certifications, Sanction and License Information for Prior Practice. • UPIN Cross Referral Requirement. Maintenance of The Registry. Update Records. Rejections. Exceptions. Carrier Record Requirements. UPIN Carrier Record Layout.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 1994]

Trans. No.		Manual/Subject/Publication Number
		List of Medical School Codes.
		Carriers Manual **Part 3—Claims Process (HCFA-Pub. 14–3)** **(Superintendent of Documents No. HE 22.8/7)**
1501	•	Quarterly Supplements to the Carrier Performance Report (Forms HCFA–1565A, HCFA–1565B, HCFA–1565C, and HCFA–1565D)—General. Completing Form HCFA–1565A. Completion of Items on Form HCFA–1565A. Completing Medicare Fraud Unit Quarterly Workload Status Report, HCFA–1565B—General. Completing Form HCFA–1565C. Completion of Items on Form HCFA–1565C. Completing Comprehensive Limiting Charge Compliance Program Quarterly Report HCFA–1565D—General. Completing Medicare Fraud Unit Quarterly Status Report, Form HCFA–1565B. Completing Carrier Limiting Charge Compliance Program Quarterly Report, Form HCFA–1565D.
1502	•	Chiropractors. Manual Manipulation. Verification of Chiropractor's Qualifications.
1503	•	Part B Provider Access to Limited Eligibility Data. Eligibility Data Available. Contractor Implementation. Data Format. Part B Eligibility Data Security Requirements. HCFA Standard Part B Eligibility Data Security Requirements. HCFA Standard Part B Eligibility Inquiry Flat File Specifications. HCFA Standard Part B Eligibility Response Flat File Specifications.
1504	•	Type of Service.
1505	•	Self-Administering of Drug or Biological.
1506	•	List of Covered Surgical Procedures.
1507	•	Rebundling of CPT–4 Codes.
		Program Memorandum **Intermediaries (HCFA–Pub. 60A)** **(Superintendent of Documents No. HE 22.8/6–5)**
A–94–8	•	Revised Wages Indexes for Ambulatory Surgical Centers—Pricer for 7.0 and 8.0.
A–94–9	•	FY 1995 Prospective Payment System and Other Bill Processing Changes.
A–94–10	•	Ambulatory Surgical Center—Pricer 9.0.
		Program Memorandum **Carriers (HCFA–Pub. 60B)** **(Superintendent of Documents No. HE 22.8/6–5)**
B–94–6	•	1995 Physician, Practitioner and Supplier Participation Enrollment and Fee Schedule Disclosure.
B–94–7	•	1995 Physician, Practitioner and Supplier Participation Enrollment and Fee Schedule Disclosure.
B–94–8	•	Split Billing for Professional and Technical Components of Services.
		Program Memorandum **Intermediaries/Carriers (HCFA–Pub. 60AB)** **(Superintendent of Documents No. HE 22.8/6–5)**
AB–94–8	•	Revised Codes for Part B Ground Ambulance Services.
		Program Memorandum **Medicaid State Agencies (HCFA–Pub. 17)** **(Superintendent of Documents No. HE 22.8/6–5)**
94–8	•	Title XIX, Social Security Act, Vaccines for Children Program.
94–9	•	Title XIX, Social Security Act, Personal Care Services Provided in a Home or Other Location.
		Regional Office Manual **Standards and Certification (HCFA–Pub. 23–4)** **(Superintendent of Documents No. HE 22.28/5:90–1)**
55	•	Developing the Budget Approval. Submittal of Budget Approval. Distribution of Approved Funds. Disbursement of Authorized Funds.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 1994]

Trans. No.		Manual/Subject/Publication Number
		The Budget Call.
		Monitoring State Agency Fiscal Budgets.
56	•	Approval Procedures for Hospitals in the 50–99 Bed Category.
		Peer Review Organization Manual (HCFA–Pub. 19) (Superintendent of Documents No. HE 22.8/15)
40	•	Introduction.
		MOA with State Agencies Responsible for Licensing/Certification of Providers/Practitioners.
		Model Memorandum of Agreement.
41	•	Complaints to be Reviewed.
		Disposition of Complaints.
		Disclosing Information.
		Monitoring Hospital-Issued Notices of Noncoverage.
		Beneficiary Liability.
		Model Hospital-Issued Notice of Noncoverage Continued Stay—Swing Bed Only.
42	•	DRG Validation Review.
43	•	Training.
		Hospital Manual (HCFA–Pub. 10) (Superintendent of Documents No. HE 22.8/2)
673	•	Billing for Mammography Screening.
		Mammography Quality Standards Act.
674	•	Billing for Mammography Screening.
		Skilled Nursing Facility (HCFA–Pub. 12) (Superintendent of Documents No. HE 22.8/3)
332	•	Billing for Mammography Screening.
		Mammography Quality Standards Act.
333	•	Billing for Mammography Screening.
		State Medicaid Manual Part 3—Eligibility (HCFA–Pub. 45–3) (Superintendent of Documents No. HE 22.8/10)
64	•	Transfers of Assets for Less Than Fair Market Value.
		Treatment of Trusts.
		State Medicaid Manual Part 6—Payment for Services (HCFA–Pub. 45–6) (Superintendent of Documents No. HE 22.8/10)
26	•	Listing of Multiple Source Drugs.
		State Medicaid Manual Part 7—Quality Control (HCFA–Pub. 45–7) (Superintendent of Documents No. HE 22.8/10)
52	•	Computations of Financial Eligibility.
		Verification Guide—Coverage Code 02 for OASDI Recipients.
		Verification Guide—Coverage Code 01 or 03.
		Verification Guide—Coverage Code 18 for QDWI Individuals.
		Verification Guide—Coverage Code 25 for Individuals Whose Eligibility for Medicaid Has Otherwise Ceased.
		Verification Guide—Coverage Code 26 for Individuals Whose Eligibility for Medicaid Has Otherwise Ceased.
		Verification Guide—Coverage Code 29 for Individuals Receiving Home and Community-Based Services and Other Waiver Services.
		Verification Guide—Coverage Code 31.
		Verification Guide—Coverage Code 40 for AFDC Families.
		Coverage Issues Manual (HCFA–Pub. 6) (Superintendent of Documents No. HE 22.8/14)
72	•	Blood Transfusions.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[October Through December 1994]

Trans. No.		Manual/Subject/Publication Number
73	•	Hydrophilic Contact Lens for Corneal Bandage.
		Home Health Agency Manual (HCFA–Pub. 11) (Superintendent of Documents No. HE 22.8/5)
273	•	Home Health Certification and Plan of Care.
		State Operations Manual Provider Certification (HCFA–Pub. 7) (Superintendent of Documents No. HE 22.8/12)
265	•	Hospice Regulations and Non-Medicare Patients. Operation of a Hospice Across State Lines. Compliance with Advance Directives. Hospice—Citations and Description. Hospice Multiple Locations. Election of Hospice Benefit by Resident of a Skilled Nursing Facility, Nursing Facility, Intermediate Care Facility for the Mentally Retarded, or Non-Certified Facility. Hospice Inpatient Services Furnished Directly or Furnished Under Arrangements. Hospice Home Visit Procedures. Model Consent for Hospice Home Visit Form. Hospice Survey and Deficiencies Report. Interpretive Guidelines—Hospices.
		Rural Health Clinic and Federally Qualified Health Centers Manual (HCFA–Pub. 27) (Superintendent of Documents No. HE 22.8/19:985)
16	•	Billing for Mammography Screening by Rural Health Clinic and Federally Qualified Health Centers. Mammography Qualified Standards Act.
17	•	Billing for Mammography Screening by Rural Health Clinics and Federally Qualified Health Centers.
		Medicare/Medicaid Sanction—Reinstatement Report
94–13	•	Report of Physician/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated.
94–14	•	Report of Physician/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated.

Addendum IV—Medicare Coverage Issues Manual

(For the reader's convenience, new material and changes to previously published material are in italics. If any part of a sentence in the manual instruction has changed, the entire line is shown in italics. The transmittal includes material unrelated to revised sections. We are not reprinting the unrelated material.)

Transmittal No. 72; section 45–27 Blood Transfusions NEW INPLEMENTING INSTRUCTIONS—EFFECTIVE DATE: For services performed on or after 12–08–94.

Section 45–27, Blood Transfusions.—This section has been added to clarify the coverage and payment policies for blood transfusions.

45–27 BLOOD TRANSFUSIONS

Blood transfusions are used to restore blood volume after hemorrhage, to improve the oxygen carrying capacity of blood in severe anemia, and to combat shock in acute hemolytic anemia.

A. Definitions.—

1. Homologous Blood Transfusion.—Homologous blood transfusion is the infusion of blood or blood components that have been collected from the general public.

2. Autologous Blood Transfusion.—An autologous blood transfusion is the precollection and subsequent infusion of a patient's own blood.

3. Donor Directed Blood Transfusion.—A donor directed blood transfusion is the infusion of blood or blood components that have been precollected from a specific individual(s) other than the patient and subsequently infused into the specific patient for whom the blood is designated. For example, patient B's brother predeposits his blood for use by patient B during upcoming surgery.

4. Perioperative Blood Salvage.—Perioperative blood salvage is the collection and reinfusion of blood lost during and immediately after surgery.

B. Policy Governing Transfusions.—For Medicare coverage purposes, it is important to distinguish between a transfusion itself and preoperative blood services; e.g., collection, processing, storage. Medically necessary transfusion of blood, regardless of the type, may generally be a covered service under both Part A and Part B of Medicare. Coverage does not make a distinction between the transfusion of homologous, autologous, or donor-directed blood. With respect to the coverage of the services associated with the preoperative collection, processing, and storage of autologous and donor-directed blood, the following policies apply.

1. Hospital Part A and B Coverage and Payment.—Under § 1862(a)(14) of the Act, nonphysician services furnished to hospital patients are covered and paid for as hospital services. The inclusion of services

provided to hospital patients by an outside supplier as part of hospital services is referred to as ''bundling.'' In a situation where a hospital obtains either autologous or donor-directed blood from an independent supplier, the supplier collects, processes, and stores the blood and, typically, delivers it to the hospital. The hospital is responsible for paying the supplier.

Part A payment, as specified in § 1814(b) of the Act, and Part B payment, as specified in § 1833(a) of the Act, relate to reasonable cost as defined in § 1861(v) of the Act. Under this system, when a hospital obtains autologous or donor-directed blood from an independent blood bank, Medicare recognizes only a processing fee charged to the hospital by the independent blood bank because the blood has been replaced, albeit in advance. The processing fee is recorded by the hospital in the blood storing, processing, and transfusion cost center. This cost center also includes any costs the hospital itself incurs to process and administer the blood after it has been procured. This includes the cost of such activities as storing, type crossmatching, and transfusing the blood, as well as the cost of spoiled or defective blood. The hospital may generate a charge for these costs (except for spoiled or defective blood) and, under cost reimbursement, Medicare picks up its share of the costs through cost apportionment. As provided in § 1886 of the Act, under the prospective payment system (PPS), the diagnosis related group (DRG) payment to the hospital includes all covered blood and blood processing expenses, whether or not the blood is eventually used.

In a situation where the hospital operates its own blood collection activities, rather than using an independent blood supplier, the costs incurred to collect autologous or donor-directed blood are recorded in the whole blood and packed red blood cells cost center. Because the blood has been replaced, Medicare does not recognize a charge for the blood itself. Therefore, under cost reimbursement, these costs are shared by all patients through cost apportionment. The costs incurred by the hospital to store, process, and transfuse the blood, as well as the cost of spoiled or defective blood, are recorded in the blood storing, processing, and transfusion cost center. The hospital may generate a charge for these costs (except for the cost of spoiled or defective blood) and, under cost reimbursement, Medicare picks up its share of these costs through cost apportionment. Under PPS, the DRG payment is intended to pay for all covered blood and blood services, whether or not the blood is eventually used.

Under its provider agreement, a hospital is required to furnish or arrange for all covered services furnished to hospital patients. Medicare payment is made to the hospital, under PPS or cost reimbursement, for covered inpatient and outpatient services, and it is intended to reflect payment for all costs of furnishing those services.

2. Nonhospital Part B Coverage.—Under Part B, to be eligible for separate coverage, a service must fit the definition of one of the services authorized by § 1832 of the Act. These services are defined in 42 CFR 410.10 and do not include a separate category for a supplier's services associated with blood donation services, either autologous or donor-directed. That is, the collection, processing, and storage of blood for later transfusion into the beneficiary is not recognized as a separate service under Part B. Therefore, there is no avenue through which a blood supplier can receive direct payment under Part B for blood donation services.

C. Perioperative Blood Salvage.—When the perioperative blood salvage process is used in surgery on a hospital patient, payment made to the hospital (under PPS or through cost reimbursement) for the procedure in which that process is used is intended to encompass payment for all costs relating to that process.

Transmittal No. 73; Section 45–7, Hydrophilic Contact Lens for Corneal Bandage. CLARIFICATION—EFFECTIVE DATE: Not Applicable.

Section 45–7, Hydrophilic Contact Lens for Corneal Bandage.—This section has been revised to explain how payment is provided for hydrophilic contact lenses when they are furnished incident to a physician's services. Payment for the lenses is bundled into the payment for the physician service to which it is incident. If the lenses are covered as other than incident to a physician's service, they are not paid under the physicians' fee schedule and would be covered prosthetic devices, which follow other payment provisions of the Act.

45–7 HYDROPHILIC CONTACT LENS FOR CORNEAL BANDAGE

Some hydrophilic contact lenses are used as moist corneal bandages for the treatment of acute or chronic corneal pathology, such as bullous keratopathy, dry eyes, corneal ulcers and erosion, keratitis, corneal edema, descemetocele, corneal ectasis, Mooren's ulcer, anterior corneal dystrophy, neurotrophic keratoconjunctivitis, and for other therapeutic reasons.

Payment may be made under § 1861(s)(2) of the Act for a hydrophilic contact lens approved by the Food and Drug Administration (FDA) and used as a supply incident to a physician's service. Payment for the lens is included in the payment for the physician's service to which the lens is incident. Contractors are authorized to accept an FDA letter of approval or other FDA published material as evidence of FDA approval. (See § 65–1 for coverage of a hydrophilic contact lens as a prosthetic device.) See Intermediary Manual, § 3112.4 and Carriers Manual, §§ 2050.1 and 15010.

ADDENDUM V.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

Publication date	FR page numbers	CFR part	File code*	Regulation title	End of comment period	Effective date
10/03/94	50235–50240	.....	MB–084–NC	Medicaid Program; Charges for Vaccine Administration Under the Vaccines for Children (VFC) Program.	.....	10/01/94
10/03/94	50246–50253	.....	ORD–068–N	Medicare and Medicaid Programs; Small Business Innovation Research Grants for Fiscal Year 1995.	.....	10/03/94
10/07/94	51125–51130	403	OBS–001–FC	Medicare Program; Information, Counseling, and Assistance Grants Program.	12/06/94	10/07/94

ADDENDUM V.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR page numbers	CFR part	File code*	Regulation title	End of comment period	Effective date
10/13/94	51989		MB–084–CN	Medicaid Program; Charges for Vaccine Administration Under the Vaccines for Children (VFC) Program Correction.	12/12/94	10/01/94
10/14/94	52129–52132	418	BPD–820–N	Hospice Services Under Medicare Program; Intent To Form Negotiated Rulemaking Committee.	11/14/94	10/14/94
10/19/94	52862	488 489	BPD–393–IFC	Medicare Program; Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care OFR Correction.	08/22/94	07/22/94
10/20/94	52968–52971		HSQ–220–N	CLIA Program; Approval of the American Society for Histocompatibility and Immunogenetics for the Specialty of Histocompatibility.		10/20/94
10/20/94	52971–52972		OPL–002–N	Medicare Program; Request for Nominations for Members for the Practicing Physicians Advisory Council.		10/20/94
10/21/94	53187–53193		BPO–124–PN	Medicare Program; Data, Standards, and Methodology Used to Establish Fiscal Year 1995 Budgets for Fiscal Intermediaries and Carriers.	12/20/94	
11/10/94	56116–56252	401 431 435 440 441 442 447 483 488 489 498	HSQ–156–F	Medicare and Medicaid Programs, Survey, Certification and Enforcement of Skilled Nursing Facilities and Nursing Facilities.		07/01/95
11/14/94	56501–56510		BPO–127–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Covered Decisions-Second Quarter 1994.		11/14/94
11/16/94	59241–61629		BPO–128–N	Medicare and Medicaid Programs; Delay in Implementation of the Medicare-Medicaid Coverage Data Bank Requirements.		11/16/94
11/17/94	59624		MB–060–P	Medicaid Program; Inpatient Psychiatric Services for Individuals Under Age 21.	01/17/94	
11/21/94	59933–59943	417	OMC–008–F	Medicare Program; Appeal Rights and Procedures for Beneficiaries Enrolled in Prepaid Health Care Plans.		12/21/94
11/22/94	60109–60156	205	MB–092–P	Aid to Families With Dependent Children; National Voter Registration Act of 1993; Implementation.	01/23/95	
11/23/94	60365		OPL–003–N	Medicare Program; Meeting of the Practicing Physicians Advisory Council.		11/23/94
12/01/94	61629–61628		OACT–046–N	Medicare Program; Part A Premium for 1995 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement.		01/01/95
12/01/94	61629–61633		OACT–047–N	Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1995.		01/01/95
12/01/94	61628–61633		OACT–048–N	Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1995.		01/01/95

ADDENDUM V.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR page numbers	CFR part	File code*	Regulation title	End of comment period	Effective date
12/06/94	62606–62609	493	HSQ–217–FC	Medicare, Medicaid and CLIA Programs; Extension of Certain Effective Dates for Clinical Laboratory Requirements and Personnel Requirements for Cytologists.	02/06/95	12/06/94
12/08/94	63410–63635	410 414	BPD–789–FC	Medicare Program; Refinements to Geographic Adjustment Factor Values, Revisions to Payment Policies, Adjustments to the Relative Value Units (RVUs) Under The Physician Fee Schedule for Calender Year 1995, and the 5–Year Refinement of RVUs.	02/06/95	01/01/95
12/08/94	63638–63646	.....	BPD–807–FN	Physician Fee Schedule Update for Calendar Year 1995 and Physician Volume Performance Standard Rates of Increase for Federal Fiscal Year 1995.	.....	01/01/95
12/13/94	64141–64153	405 482	BPD–421–F	Medicare and Medicaid Programs; Revisions to Conditions of Participation for Hospitals.	.....	01/12/95
12/13/94	64153–64156	412 413	BPD–802–CN	Medicare Program; Changes to the Hospital Inpatient Prospective Systems and Fiscal Year 1995 Rates; Correction.	.....	10/01/94
12/20/94	64482–65498	409 413 418 484	BPD–469–F	Medicare Program; Medicare Coverage of Home Health Services, Medicare Conditions of Participation, and Home Health Aide Supervision.	.....	02/21/95
12/23/94	66314–66316	.....	HSQ–221–N	Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Continuance of Exemption of Laboratories Licensed by the State of Washington.	.....	12/29/94
12/29/94	67264–67265	.....	BPD–822–N	Medicare Program; Hospice Wage Index.	.....	12/29/94
12/29/94	67265	.....	BPD–823–N	Medicare Program; Hospice Wage Index.	.....	12/29/94

*GN—General Notice; PN—Proposed Notice; FN—Final Notice; P—Notice of Proposed Rulemaking (NPRM); F—Final Rule; FC—Final Rule with Comment Period; CN—Correction Notice; SN—Suspension Notice; WN—Withdrawal Notice; NR—Notice of HCFA Ruling.

[FR Doc. 95–8398 Filed 4–5–95; 8:45 am]
BILLING CODE 4120–01–P

Health Resources and Services Administration

Maternal and Child Health Services; Federal Set-Aside Program; Genetic Services and Maternal and Child Improvement Projects for Fiscal Year (FY) 1995: Cancellation/Changes of Cycle for Certain Grants and Cooperative Agreements; Extension of Certain Application Deadline Dates

Notice of Availability of Funds for Special Project Grants and Cooperative Agreements; Maternal and Child Health Services; Federal Set-Aside Program; Genetic Services and Maternal and Child Improvement Projects for fiscal year (FY) 1995, section 502(a), title V of the Social Security Act, was published on February 13, 1995, at 60 FR 8244. Section 4.1.2.1. of this notice announced the availability of funds for 4–6 grants in the Maternal, Infant, Child and Adolescent Health subcategory priority identified as ''Adolescent Health Resource Center.'' Section 4.1.2.3. of this notice announced the availability of funds for 5 grants in the Data Utilization subcategory,

Since publication of this notice, it has been determined that amounts allocated for grants under Section 4.1.2.1. are insufficient to permit the award of 4–6 grants in the ''Adolescent Health Resource Center'' priority for FY 1995. As a result, this competition will award one grant in FY 1995 of $200,000 per year for up to 5 years. The programmatic and technical information contact for this competition is Juanita Evans, M.S.W., telephone: (301) 443–4026. Additionally, it has been determined that amounts allocated for grants under Section 4.1.2.2. are insufficient to permit the award of 3 grants in the ''Mental Health Resource Grants'' priority for FY 1995. As a result, this competition will award 2 grants in FY 1995 of $500,000 each per year for up to 5 years. Finally, it has been determined that amounts allocated for grants under Section 4.1.2.3. are insufficient to permit the award of 5 grants in FY 1995 of $100,000 each per year for 3 years. As a result, this competition will award up to 5 grants totalling up to $200,000 in FY 1995, with awards ranging between $25,000 to $100,000 each per year for up to 3 years.

Three of the deadline dates announced in the February 13 Notice of

Availability of Funds for Special Project Grants and Cooperative Agreements; Maternal and Child Health Services; Federal Set-Aside Program; Genetic Services and Maternal and Child Health Improvement Projects for fiscal year (FY) 1995, are being extended. The deadline date for the remaining grant announced under Section 4.1.2.1. is hereby extended to May 25, 1995. Additionally, the deadline date for School Health Program grants under Section 4.1.2.2. is hereby extended to May 25, 1995. Finally, the deadline date for cooperative agreements for Partnership for Information and Communication announced under Section 4.2.2. is hereby extended to May 25, 1995.

The rest of the notice remains as published.

An additional notice announcing other cancellation/changes or extension of application due dates was published on March 20, 1995 at 60 FR 14762 entitled Maternal and Child Health Services; Federal Set-Aside Program; Genetic Services and Maternal and Child Improvement Projects for Fiscal Year (FY) 1995: Cancellation of Cycle for Certain Grants and Cooperative Agreements; Extension of Certain Application Deadline Dates.

Dated: April 3, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–8450 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 59 FR 62406–62407, dated December 5, 1994) is amended to reflect the realignment of functions within the Office of the Director, Office of Program Support, Centers for Disease Control and Prevention (CDC).

Section HC–B, Organization and Functions, is hereby amended as follows:

After the functional statement for the Office of Program Support (HCA5), Office of the Director (HCA5A), delete the title and functional statement for the Management Review Activity (HCA5A1) in its entirety.

Revise the functional statement for the Information Resources Management Office (HCA54) by adding ''IRMO'' to item 10 before the words ''information security programs.''

Revise the functional statement for the Office of the Director (HCA541), Information Resources Management Office HCA54) by adding ''IRMO'' to item (11) before the words ''information security programs.''

Revise the functional statement for the Human Resources Management Office (HCA57), by deleting items (9) through (12) and inserting the following items: (9) conducts CDC's personnel security and substance abuse programs; (10) develops, maintains, and supports information systems to conduct personnel activities and provide timely information and analyses of CDC personnel and staffing to CDC management and employees; (11) maintains liaison with PHS, HHS, and the U.S. Office of Personnel Management in the area of human resources management; (12) administers the National Performance Rview (NPR) and Human Resources initiatives to meet current and future requirements.

Revise the functional statement for the Office of the Director (HCA571), Human Resources Management Office (HCA57) be deleting items (3) through (5) and inserting the following items: (3) develops, maintains, and supports information systems to conduct personnel activities and provide timely information and analyses on CDC personnel and staffing to CDC management and employees; (4) advises the Director, CDC, and other CDC management staff on all matters relating to human resources management; (5) administers the National Performance Review (NPR) and Human Resources initiatives.

Revise the functional statement for the Work Force Relations Branch (HCA572), Human Resources Management Office, (HCA57), by deleting items (3) through (5) and inserting the following items: (3) serves as liaison with the Office of Health and Safety and other CDC staff for personnel matters relating to substance abuse and other employee assistance programs; (4) coordinates the Fair Share and Dependent Care programs.

Delete the title and functional statement for the Committee Management and Personnel Security Section (HCA5722) in their entirety.

Revise the functional statement for the Operations Branch (HCA575) by adding the following item: (8) conducts the personnel security program.

Revise the functional statement for the Technical Services Section (HCA5757) by adding the following items: (7) conducts personnel security and position sensitivity programs; (8) provides assistance in the implementation of HHS Plan for a Drug Free Workplace.

Delete the functional statement for the Management Analysis and Services Office (HCA59) in its entirety and insert the following: (1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: Studies and surveys, delegations of authorities, organization and functions, information security, Privacy Act, policy and procedures, records management, printing procurement and reproduction, correspondence, forms design, publications distribution, issuances, mail services, public inquiries, reports and committee management; (2) develops and implements policies and procedures in these areas; (3) conducts management control reviews and coordinates IG/GAO audits; (4) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, National Archives and Records Administration, and other Government and private agencies.

Revise the functional statement for the Office of the Director (HCA591), Management Analysis and Services Office (HCA59), by deleting items (2) and (3).

Delete in its entirety the title and functional statement for the Records Management Activity (HCA5913).

After the functional statement for the Administrative Services Activity (HCA5912), Management Analysis and Services Office (HCA59), insert the following:

Committee Management and Program Panels Activity (HCA592). (1) Develops and manages, in conjunction with CDC's grants management requirements, A CDC-wide special emphasis panel that is the primary review mechanism for assuring scientific and programmatic review of applications for grant support; (2) coordinates committee management activities, including Federal advisory committees, for CDC; (3) receives and reviews requests received from the public for information and publications, and responds to the requests or forwards to the appropriate CDC program for action; (4) prepares and/or selects, and plans for materials to respond to public inquiries from various audiences; (5) coordinates the production and maintenance of the Resource Index.

Delete in its entirety the functional statement for the Management Analysis

Branch (HCA597) and insert the following: (1) Provides consultation and assistance to CDC program officials on the establishment, modification, or abolishment of organizational structures and functions; reviews and analyzes organizational changes; and develops documents for approval by appropriate CDC, PHS, or HHS officials; (2) conducts management and operational studies for CDC to improve the effectiveness and efficiency of management and administrative systems techniques, policies, and organizational structures; (3) interprets, analyzes, and makes recommendations concerning delegations and redelegations of program and administrative authorities, and develops appropriate delegating documents; (4) develops and coordinates the implementation and conduct of CDC-wide information security programs; (5) conducts a CDC-wide records management program, including provision of technical assistance in the development and conduct of electronic records management activities; (6) coordinates IG/GAO audit activities; (7) plans, directs, and coordinates requirements of OMB Circulars A–76 and A–123 to conduct management review activities and to determine whether certain Agency functions might be more appropriately carried out through or by commercial sources; (8) plans, develops, and implements policies and procedures in these areas, as appropriate.

Delete in its entirety the functional statement for the Management Services Branch (HCA598) and insert the following: (1) Plans and conducts a publications management program, including development, production, procurement, distribution, and storage of CDC publications; (2) plans, directs, coordinates, and implements CDC-wide information distribution services and mail and messenger services, including the establishment and maintenance of mailing lists; (3) maintains liaison with contract suppliers, HHS, PHS, the Government Printing Office, and other Government agencies on matters pertaining to printing, copy preparation, reproduction, and procurement of printing; (4) serves as the focal point for recommending polices and establishing procedures for matters pertaining to energy conservation and recycling; (5) plans, develops, and implements policies and procedures in these areas, as appropriate.

After the functional statement for the Office of the Chief (HCA5981), Management Services Branch (HCA598), delete the following titles and functional statements in their entirety:

Public Inquiries Activity (HCA59812).

Publications Management Section (HCA5982).

Publications Planning and Procurement Unit (HCA59822).

Publications Graphics Unit (HCA59823).

Information Distribution Section (HCA5983).

Publications Distribution Unit (HCA9832).

Publications Inventory Unit (HCA59833).

Mail Management Unit (HCA59834).

Dated: March 28, 1995.

David Satcher,

Director, Centers for Disease Control and Prevention.

[FR Doc. 95–8412 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–18–M

Health Resources and Services Administration; Section 1892 of the Social Security Act, as amended; Offset of Medicare Payments to Individuals to Collect Past-Due Obligations Arising From Breach of Scholarship or Loan Contract; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on January 31, 1995, the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, with authority to redelegate, certain authorities under Section 1892 of the Social Security Act, as amended hereafter, pertaining to Offset of Medicare Payments to Individuals to Collect Past-Due Obligations arising from Breach of Scholarship or Loan Contract.

The authorities hereby delegated are (1) the authority to negotiate, approve, and sign Medicare Offset Agreements, and (2) the authority to inform the Attorney General and the Inspector General of the Department of Health and Human Services when a scholarship or loan obligor has refused to enter into, or has breached, a Medicare Offset Agreement. All other authorities under Section 1892 have been delegated to, and remain with, the Administrator, Health Care Financing Administration.

I provided for the ratification of all actions taken by any Public Health Service officials, with respect to Medicare offsets, prior to the effective date of this delegation.

The above delegation was effective on March 28, 1995.

Dated: March 28, 1995.

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 95–8385 Filed 4–5–95; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–95–3902; FR–3888–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received by ten (10) days following the publication of this notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing, an information collection package with respect to a guide format which specifies the components of an application for approval by the Department of a national, regional, or multi-state housing agency in connection with the operation of a housing counseling program for renters, first-time homebuyers, and homeowners experiencing financial difficulty. Guide formats for applications for local housing counseling agencies, associated with HUD Handbook 7610.1, had

previous OMB approval under approval number 2502–0261. However, new formats adapted to the character of national, regional and multi-state organizations are needed to allow them to obtain HUD approval as counseling agencies.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35);

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submission will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Housing Counseling Program and Recordkeeping Requirements.

Office: Office of Housing—Federal Housing Commissioner.

Description of the Need for the Information and its Proposed Use

Section 106 of the Housing and Urban Development Act, authorizes HUD to approve organizations with knowledge and experience in housing counseling for the purpose of providing housing counseling services to renters, first-time homebuyers and homeowners experiencing financial difficulty. HUD recruits, trains, and approves mostly community-based nonprofit organizations for the delivery of housing counseling services. In FY 1995, national, regional and multi-state organizations will be eligible to participate for the first time.

The tabulation sheet lists the collections of information required. All are required to administer the program in accordance with statutory and regulatory requirements. The collection of information is necessary for:

- Meeting the requirements of the housing counseling grant agreement.
- Obtaining data needed to prepare and support the housing counseling invoices.
- Obtaining recommendations from grantees for improving the program and reducing the burden.
- Monitoring the agencies to determine whether they should be decertified, and their housing counseling grant agreement terminated.

Form Numbers

A. Preliminary Application for Approval as a Housing Counseling Agency: (HUD–9900–A)—Used to collect data for a preliminary application for approval as a Housing Counseling Agency for local non-profits or public agencies.

B. Final Application for Approval as a Housing Counseling Agency: (HUD–9900–B)—Used to collect data for final approval as a Housing Counseling Agency for local non-profits or public agencies.

C. Preliminary Application for Approval as a Housing Counseling Agency: (HUD–9900–C)—Used to collect data for a preliminary application for approval as a Housing Counseling Agency for multi-state, regional and national organizations.

D. Final Application for Approval as a Housing Counseling Agency: (HUD–9900–D)—Used to collect data for final approval as a Housing Counseling Agency for multi-state, regional and national organizations.

E. Housing Counseling Agency Fiscal Year Activity Report: (HUD–9902)—Used to collect data from Housing Counseling Agencies on their yearly counseling activity.

F. Housing Counseling Client Survey (HUD–9908)—Used to collect data from clients regarding the quality of service provided by the Housing Counseling Agency.

G. Housing Counseling Activity and Unit Log (HUD–9921)—Used by the Housing Counseling Agencies to record information on their clients. (With HUD approval the agencies may substitute their own version of this form.)

Respondents: Local housing counseling agencies and national, regional, and multi-state housing counseling organizations.

Frequency of Submission: Annual.

Reporting Burden:

	No. of respondents	×	Frequency of response	=	Hours per response	=	Burden hours
A.	75		1		2		150
B.	75		1		8		600
C.	10		1		2		20
D.	10		1		8		80
E.	650		1		1.17		761
F.	300		1		.25		75
G.	431		200		.25		21,550
Total estimated burden hours:							23,236

Status: Reinstatement, with change, of a previously approved collection for which approval has expired.

Contact: Joseph F. Lackey, Jr. OMB (202) 395–6880; Bonnie Adkins HUD (202) 708–0614, ext. 2034.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 16, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Supporting Statement—Housing Counseling Program and Recordkeeping Requirements

A. Justification for the Collection of Information

1. Why the Collection of Information is Necessary

Section 106 of the Housing and Urban Development Act, authorizes HUD to approve organizations with knowledge and experience in housing counseling for the purpose of providing housing counseling services to renters, first-time homebuyers and homeowners experiencing financial difficulty. HUD recruits, trains, and approves mostly community-based nonprofit organizations for the delivery of housing counseling services. In FY 1995, national, regional and multi-state organizations will be eligible to participate for the first time.

The collection of information is necessary for:

- Meeting the requirements of the housing counseling grant agreement.
- Obtaining data needed to prepare and support the housing counseling invoices.
- Obtaining data needed to prepare and support the housing counseling invoices.
- Monitoring the agencies to determine whether they should be decertified, and their housing counseling grant agreement terminated.

a. Description of Current Funding

Funding for the Housing Counseling Program has been provided by the Congress for the fiscal year 95 in the amount of $50,000,000.

2. Use and Need of Information Collected

The tabulation sheet lists the collections of information required. All are required to administer the program in accordance with statutory and regulatory requirements.

Actual Use of the Forms

A. Preliminary Application as a Housing Counseling Agency (HUD–9900–A)—Used to collect data for a preliminary application for approval as a Housing Counseling Agency for local non-profits or public agencies.

B. Final Application for Approval as a Housing Counseling Agency (HUD–9900–B)—Used to collect data for final approval as a Housing Counseling Agency for local non-profits or public agencies.

C. Preliminary Application as a Housing Counseling Agency (HUD–9900–C)—Used to collect data for a preliminary application for approval as a Housing Counseling Agency for multi-state, regional and national organizations.

D. Final Application for Approval as a Housing Counseling Agency (HUD–9900–D)—Used to collect data for final approval as a Housing Counseling Agency for Multi-state, regional and national organizations.

E. Housing Counseling Agency Fiscal Year Activity Report (HUD–9902)—Used to collect data from Housing Counseling Agencies on their yearly counseling activity.

F. Housing Counseling Client Survey (HUD–9908)—Used to collect data from clients regarding the quality of service provided by the Housing Counseling Agency.

G. Housing Counseling Activity and Unit Log (HUD–9921)—Used by the Housing Counseling Agencies to record information on their clients. (With HUD approval the agencies may substitute their own version of this form.)

3. Use of Modern Technology

There is no available technology to reduce the information collection burden.

4. Efforts to Identify Duplication

We have carefully reviewed the forms and their uses, and find no duplication of information.

5. Impact on Small Business

Not applicable.

6. Consequence to Federal Programs

The burden involved is considered to be the minimum amount consistent with statutory and regulatory requirements.

7. Special Circumstances for Collection of Information Inconsistent with the Guidelines in 5 CFR 1320.6

Not applicable.

8. Consulting With Persons Outside of HUD Concerning Collection of Information

We consulted with the following HUD-approved housing counseling agencies who have received counseling grants:

TULC Non-Profit Housing Corp., 3901 Grand River Avenue, Detroit, MI 48208, Mrs. Marguerite Evans, Executive Director, Tel. (313) 964–4207

Housing Opportunities, Inc., 133 Seventh Street, McKeesport, PA 15219, Mr. James P. Butler, President, Tel. (412) 664–1590.

There were no major problems that could not be resolved.

Other public contact was made with the following: Mortgage Bankers Association of America, 1125 15th Street NW., Washington, DC 20005, Tel. (202) 861–6500.

9. Assurance of Confidentiality for Respondents

To assure that the information provided to respondents by individuals and families is kept confidential, we require that the counseling records of each client be kept in a locked file or secured room with access limited to staff housing counselors using the files.

10. Additional Justification for Questions of a Sensitive Nature

We do not have any questions of a sensitive nature such as sexual preference or religious belief. However, in order to collect data on the type of clients being counseled, and to ensure that all clients are served equitably, the HUD-approved housing counseling agencies (respondents) must obtain information from their clients on the family composition, race, ethnicity, sex, ages, income, expenses, debts incurred and other related data.

Annualized Cost to the Federal Government

The estimate of annualized cost per respondent will vary depending on their respective capabilities. However, we estimate the annual cost to be $15.00 per hour × 21.67 burden hours, or $325.

The annualized cost to the federal government for all collections will be 69 Field Office staff at $18.00 per staff hour × 2 hours and 15 minutes processing time, or $2,691.

12. Burden of Collection of Information

See attached tabulation sheet.

13. Changes in Burden

The increase in burden hours is due to an increase in the number of agencies

in the program and also reflects a policy change to include national or regional entities. This change in policy is the direct result of the Department being approached by several national organizations wishing to play a more active role in the program. In addition, the Department wants to take advantage of a more efficient approach to administering the program. For example, nearly 40% of local counseling agencies currently participating could be managed through one national membership group, which would vastly reduce the number of individual grantees that HUD now must serve directly. This approach will also save HUD staff time.

14. Publishing and Collecting of Information for Statistical Use

Not applicable.

BILLING CODE 4210–27–M

TABULATION OF REPORTING BURDEN
THE HOUSING COUNSELING PROGRAM

	Description of information Collection Requirement	Number of Respondents	Number of Responses Per Respondent	Total Annual Response	Hours per Response	Total Hours
1	Preliminary Application for Approval as a Housing Counseling Agency	75	1	75	2	150
2	Final Application for Approval as a Housing Counseling Agency	75	1	75	8	600
3	Preliminary Application for Approval as a Housing Counseling Agency (Multi–state, Regional, National)	10	1	10	2	20
4	Final Application for Approval as a Housing Counseling Agency (Multi–state, Regional, National)	10	1	10	8	80
5	Housing Counseling Agency Fiscal Year Activity Report	650	1	650	1.17	761
6	Housing Counseling Client Survey	300	1	300	0.25	75
7	Housing Counseling Activity and Unit Log	431	200	86,200	0.25	21,550
Totals		1,551	206	87,320	22	23,236

Preliminary Application for Approval as a Housing Counseling Agency

Housing Counseling Program

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0261 (Exp. 08/31/93)

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0261), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Instructions

1. Send the signed original and one **signed** copy of form HUD-9900-A, Preliminary Application, to the HUD office that services the area in which your organization is located. Attach the submissions required by these instructions. Retain these instructions and a copy of form HUD-9900-A.

2. **Do not** complete or send the Final Application until HUD requests it after a satisfactory conference with your organization.

3. For all requested attachments, send reproduced copies, **not** originals.

4. **Legal Status.** Attach a copy of the document that supports your claim to be a nonprofit organization. The attachment must include, among other facts, the official name, address, and telephone number of the legal authority that granted nonprofit status.

5. **Charter.** Attach a copy of the document (charter, by-laws, etc.) that authorizes your organization to provide housing counseling.

6. **Local Government.** Attach a copy of the document that authorizes you to provide housing counseling if you are a unit of local, county, or State government.

7. **Community Base**

a. Attach a description of your organization's experience and record of achievement in providing housing counseling or other similar services to the community in which you plan to provide housing counseling services.

b. ZIP Codes and Map:

(1) List the U.S. Postal Service ZIP code areas served by your agency. Include only those ZIP code areas from which your agency received "clients" during the 12-month period immediately prior to the date of your application for HUD approval.

(2) On a map, indicate the location of your counseling facility(ies). On the map, outline and identify by number each of the individual ZIP code areas you now serve as you indicated under subparagraph (1) above. Indicate the locations and give the names of all other housing counseling agencies within the ZIP code areas you serve. Attach the map to Section B.

c. Attach evidence that you have staff who fluently speak your clients' native language if you plan to provide housing counseling to nonEnglish-speaking persons.

8. **Audit Report.** Attach a copy of your audit report for an audit conducted within the 12-month period prior to the date of your application. See paragraph 2-1 of Handbook 7610.1.

Assurances: The applicant assures HUD that the applicant complies with the following items and will, as a HUD-approved housing counseling agency:

1. Administer its housing counseling in accordance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

2. Provide its housing counseling services without subagreements with other agencies for the delivery of all or any part of the services in the applicant's counseling plan as approved by HUD.

3. Represent its clients without any conflict of interest on the part of the applicant, including its staff, that might compromise the agency's ability to represent fully the best interests of the client in accordance with HUD Handbook 7610.1.

4. Meet all local, State, and Federal requirements necessary to provide the applicant's housing counseling services, including debt management and liquidation services if the applicant provides such services.

5. Comply with the fee guidelines set forth in Handbook 7610.1 if the applicant plans to charge counseling fees.

1. Official Name of Applicant Organization:	3. Address of Main Office (If the applicant plans to use locations other than the main office, list them on a separate sheet and attach it to this sheet.)
2. Acronym, if any, for Official Name:	
4. Main Office Telephone Number	5. Executive Director's Name & Title:
6. Counseling Program Administrator's Name & Title:	7. Name, Title, Date, & Signature of Person Authorized by the Applicant's Governing Body to Submit this Application:

Replaces HUD-9900, Which is Obsolete.

form **HUD-9900-A** (8/93)
ref Handbook 7610.1

Final Application for Approval as a Housing Counseling Agency

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

Housing Counseling Program

OMB Approval No. 2502-0261 (Exp. 08/31/93)

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0261), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Instructions

1. Submit your completed Final Application only when HUD requests you to do so. This happens after HUD approves your Preliminary Application and you complete a satisfactory conference with HUD. HUD will not review Final Applications it has not requested from an applicant.

2. This Final Application consists of four related sections: (1) the target area and population you propose to serve, (2) the housing needs and housing problems you have documented and propose to address, (3) the resources you possess or will obtain to carry out your counseling plan, and (4) your housing counseling plan.

3. Your counseling plan must be reasonable in relation to the target population and their housing needs/problems and the resources you have to implement the plan. HUD seeks to approve counseling plans that an applicant can carry out with available resources. HUD will not approve a well-meaning but ill-conceived plan that lacks the necessary resources. It behooves every applicant to write a counseling plan that meshes the needs/problems with the resources. A small, workable plan is acceptable, but a large plan that exceeds the resources to implement it is bound not to be approved by HUD. You may limit your plan to a specialized area of housing counseling such as default counseling.

4. Please prepare your plan in a logical and orderly manner, using the outline of sections set forth below in the Final Application section. Your submission should also meet these requirements.

a. Typewritten or other form of word processing with letter-quality or near-letter-quality printing
b. Letter-size 8 1/2 x 11" paper (For identification purposes, place your organization's name or acronym and city and State on the top of each page.)
c. Outline format, as below
d. Detailed but concise
e. One copy
f. Use short paragraphs in narrative sections.

5. After you complete the parts of the Final Application, prepare a **one-page single-spaced** summary cover sheet on your letterhead. Entitle the sheet "Final Application for HUD Approval as a Housing Counseling Agency—Summary Sheet."

The summary must tell HUD how your housing counseling plan meets the housing needs and problems of the target population and how your resources and the community's resources will enable you to implement the plan. Include the name and telephone number of the person whom HUD may contact regarding the application.

This summary should serve the HUD reviewer as an introduction to your Final Application. The person authorized to submit the application must sign the summary and enter the date of the signing.

A transmittal letter to HUD is not necessary.

I. Target Area.

Consists of the ZIP code areas you entered on the map as part of your Preliminary Application. Submit the following items:

A. **A concise but detailed description of the target area** you propose to service with housing counseling. The description must include but is not limited to such items as: size of the population, racial and ethnic make-up of the population, socio-economic factors, age and condition of housing. Please do not exceed two single-spaced typewritten letter-size pages.

B. **A brief statement of your reason for selecting the target area.** Include a statement regarding why you believe your organization can service the area. Please do not exceed one single-spaced letter-size page.

D. **A justification for selecting the target area** if other housing counseling agencies exist in or near your target area.

4. **A revised map** that locates your offices, the target area, **and the location of other housing counseling agencies, only** if the HUD office requests it after review of your Preliminary Application.

II. Housing Needs and Problems. Submit the following.

A. **A narrative description of the housing needs and problems** of the target population. Before writing this item, see HUD Handbook 7610.1 for a definition of "housing need" and "housing problem."

B. **Be specific! Cite sources from which you obtained your data.** Include special needs and problems, such as those related to low income or poverty, homelessness, language, ethnic, minority, and racial factors.

III. Resources.

For the purpose of this Final Application, HUD considers two major types of resources.

A. **Applicant.** These are "on-hand" resources of **staff, facilities,** and **funding** possessed by the applicant, regardless of their source, that the applicant can use to deliver housing counseling. Funds the applicant has on hand or has a **written commitment** to receive from any source fall into this category. Submit a detailed narrative statement of these resources that are "on hand" as of the date of your Final Application. Break the statement out into the above three categories—staff, facilities, and funding. **Do not** include unsupported projections of what you **hope** to receive or **plan** to seek.

1. **Staff**

a. Include a brief dossier for each person who will supervise or perform counseling, or support counseling with clerical work.

b. Indicate each staff person's position title, duties, and whether the position is full-time or part-time, is paid or volunteer.

PRELIMINARY APPLICATION FOR APPROVAL AS A HOUSING COUNSELING AGENCY
Housing Counseling Program

U.S. Department of Housing and Urban Development
Office of Housing
OMB Approval No. 2502-0261 (Exp. 00/00/00)

MULTI-STATE, REGIONAL, AND NATIONAL ORGANIZATIONS

INSTRUCTIONS

1. Send the signed original and one SIGNED copy of Section B of this Preliminary Application to:

   Emelda P. Johnson, Deputy Assistant Secretary
   for Single Family Housing
   Room 9282
   U.S. Department of Housing and Urban Development
   Washington, D.C. 20410

   Attach to Section B the submissions required under Section A. Retain Section A and a copy of Section B in your file.

2. DO NOT complete or send the Final Application until HUD requests it after a satisfactory conference with your organization.

3. For all requested attachments, send reproduced copies, NOT originals.

Preliminary Application - Section A - Applicant Information

1. TYPE OF ORGANIZATION. Check and complete one of the items below.

   a. [ ] national organization (A national organization need not function in all 50 States but should have branches or affiliates that cover more than one regional area of the country.)

      (1) enter the number of States in which your organization will provide housing counseling: _____

      (2) enter the number of offices (main, branch or affiliate) where your organization will provide housing counseling: _____

b. [ ] regional organization (A regional organization serves a regional area such as the Southwest or the Northeast. The organization's operational boundaries need not conform precisely to what might be accepted as a definition, for example, of the Southwest of the United States. A reasonable approximation of boundaries suffices.)

(1) enter the regional name of the area where your organization will provide housing counseling: _____

(2) enter the number of States included in the region you will serve:_____

(3) enter the number of offices (mail, branch or affiliate) where you organization will provide housing counseling:_____

c. [ ] multi-State organization (A multi-State organization serves three or more States. The States may be contiguous or noncontiguous. The organization's operational boundaries need not conform precisely to the State boundaries to satisfy this definition. A reasonable approximation of boundaries suffices.)

(1) enter the names of the States where your organization will provide housing counseling: _____

(2) enter under each State name the number of offices (mail, branch or affiliate) where you organization will provide housing counseling:_____

2. LEGAL STATUS. Attach to Section B a copy of the document that supports your claim to be a nonprofit organization. The attachment must include, among other facts, the official name, address, and telephone number of the legal authority that granted nonprofit status. HUD assumes and the applicant assures that its branches or affiliate are also nonprofit entities.

3. CHARTER. Attach To Section B a copy of the document (charter, by-laws, governing body meeting minutes, etc.) that authorizes your organization to provide housing counseling.

4. LOCAL GOVERNMENT. If you are a unit of local, county, or

state government, attach to Section B a copy of the document that authorizes you to provide housing counseling.

5. COMMUNITY BASE

a. Attach to Section B a description of your organization's experience and record of achievement during the past three years in providing housing counseling or other similar services to the communities in which you plan to provide housing counseling services.

b. Branches or Affiliates. Provide a list of your organization's main office and branch offices or affiliates. Include the following information for your main office and each branch or affiliate.

(1) Official name

(2) Address, including ZIP Code

(3) Mailing address if different from address on line 2 above

(4) Telephone Number(s): include toll-free number, if available

(5) Name, title, and telephone number of the person in charge of the housing counseling program

c. If you plan to provide housing counseling to non-English-speaking persons, attach to Section B evidence that you have staff who fluently speak your clients' native language.

6. Audit Report. Attach to Section B a copy of your audit report for an audit conducted within the 12-month period prior to the date of your application. See paragraph 2-1 of this handbook. HUD assumes and the applicant assures that its branches or affiliates have had an audit conducted within the 12-month period prior to the date of this application.

Preliminary Application - Section B - Assurances and Signatures

---

The applicant assures HUD that it complies with the following items and will, as a HUD-approved housing counseling agency:

1. Administer its housing counseling in accordance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063,

Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

2. Provide its housing counseling services without subagreements with agencies other than the applicant's branches or affiliates or HUD-approved housing counseling agencies for the delivery of all or any part of the services in the applicant's counseling plan as approved by HUD.

3. Represent its clients without any conflict of interest on the part of the applicant, including its staff, that might compromise the agency's ability to represent fully the best interests of the client in accordance with HUD Handbook 7610.1 REV-3, para. 5-1.

4. Meet all local, state, and federal requirements necessary to provide the applicant's housing counseling services, including debt management and liquidation services if the applicant provides such services.

5. Comply with the fee guidelines set forth in chapter 6 of Handbook 7610.1 REV-3 if the applicant plans to charge counseling fees as described in that chapter.

Complete the following items. Detach this Section B from Section A and send it to HUD with all items set forth in Section A.

1. Official Name of Applicant Organization

2. Acronym, if any, for official name:

3. Address of Main Office (If the applicant plans to use locations other than the main office, list them on a separate sheet and attach it to this sheet.)

4. Main Office Telephone Number

5. Executive Director's Name and Title

6. Counseling Program Administrator's Name and Title

7. Name, Title, Date, and Signature of Person Authorized

by the Applicant's Governing Body to Submit this Application.

---

file: APPLICAT.X1

FINAL APPLICATION FOR APPROVAL
AS A HOUSING COUNSELING AGENCY
Housing Counseling Program

U.S. Department of Housing
and Urban Development
Office of Housing
OMB Approval No. 2502-0261

INSTRUCTIONS

I. Submit your completed Final Application only when HUD requests you to do so. This happens after HUD approves your Preliminary Application and you complete a satisfactory conference with HUD. HUD will not review Final Applications it has not requested from an applicant.

II. This Final Application consists of four related sections: (1) the target area and population you propose to serve, (2) the housing needs and housing problems you have documented and propose to address, (3) the resources you possess or will obtain to carry out your counseling plan, and (4) your housing counseling plan.

III. Your counseling plan must be reasonable in relation to the target population and their housing needs/problems and the resources you have to implement the plan. HUD seeks to approve counseling plans that an applicant can carry out with available resources. HUD will not approve a well-meaning but ill-conceived plan that lacks the necessary resources. It behooves every applicant to write a counseling plan that meshes the needs/problems with the resources. A small, workable plan is acceptable, but a large plan that exceeds the resources to implement it is bound not to be approved by HUD.

IV. Please prepare your plan in a logical and orderly manner, using the outline of sections set forth below in the Final Application section. Your submission should also meet these requirements.

A. Typewritten or other form of word processing with letter-quality or near-letter-quality printing

B. Letter-size 8 1/2 X 11" paper (For identification purposes, place your organization's name or acronym and city and state on the top or bottom of each page.)

C. Outline format, as below

D. Detailed but concise

E. One copy

F. Use short paragraphs in narrative sections.

V. After you complete the parts of the Final Application, prepare a <u>one-page single-spaced</u> summary cover sheet on your letterhead. Entitle the sheet "Final Application for HUD Approval as a Housing Counseling

item, see para. 1-7A of HUD Handbook 7610.1 REV-3, for a definition of "housing need" and "housing problem."

BE SPECIFIC!

Include special needs and problems, such as those related to available housing stock, low income or poverty, homelessness, language, ethnic, minority, and racial factors.

III. RESOURCES. For the purpose of this Final Application, HUD considers two major types of resources.

A. Applicant. These are "on-hand" resources of STAFF, FACILITIES, and FUNDING possessed by the applicant, regardless of their source, that the applicant can use to deliver housing counseling. Funds the applicant has on hand or has a written commitment to receive from any source fall into this category.

Submit a detailed narrative statement of these resources that are "on hand" as of the date of your Final Application. Break the statement out into the above three categories--staff, facilities, and funding.

DO NOT include unsupported projections of what you hope to receive or plan to seek.

1. Staff

a. Include a brief resume for each person who will oversee the housing counseling program at the headquarters of the applicant organization.

b. For each resume under para. a. immediately above, indicate each staff person's position title and duties.

2. Facilities. Do NOT provide information for each branch or affiliate. Instead, provide a general description of the facilities, but DO address the matters of **PRIVACY** and **ACCESS BY HANDICAPPED PERSONS** by including a statement to the effect that these needs are or are not met at each counseling location. Privacy and handicap access are required at each location.

a. Describe the facilities available for counseling, including privacy and access by handicapped persons. If access by handicapped persons is not present, indicate its absence and how, if at all, you would provide counseling to handicapped persons.

b. Indicate whether public transportation is within a

15-minute walk of the each counseling location.

3. Funding

a. List the sources and amounts of funds from those sources that you have "on hand." "On hand" means you possess the cash or written commitments for receipt of the funds within the initial 12-month period of your work as a HUD-approved housing counseling agency.

b. Submit a copy of your current housing counseling budget and indicate the sources of the funds for the budget.

c. If you plan to charge counseling fees, see para. 6-2, COUNSELING FEES, in chapter 6 of HUD **Handbook 7610.1 REV-3.** Submit a statement that you are in compliance with para. 6-2, and include copies of all items required under that paragraph.

B. Community Resources

1. These consist of the types of local, state, and federal public and private agencies with whom the applicant expects its branch or affiliates to have firm working relations for the provision of various kinds of assistance to the applicant's clients.

2. List the names of the types of community resources from which you expect your branches or affiliates to receive services or other forms of assistance for clients either at your facilities or those of the resource.

3. Community resources include HUD-approved counseling agencies with which the applicant and its branches or affiliates will work cooperatively

IV. HOUSING COUNSELING PLAN. HUD considers an acceptable housing counseling plan to be a reasonable interlocking of the needs and housing problems of the target areas with the resources available to the applicant to address those needs and problems successfully on behalf of clients.

Using the facts about your previously identified types of target areas, their housing needs and problems, and the resources on-hand or available to you, describe in detail the comprehensive housing counseling you, through your branches or affiliates, will provide as a HUD-approved housing counseling agency.

Your plan must reflect an understanding of HUD's concept of housing counseling as set forth in HUD **Handbook 7610.1 REV-3.** EXAMPLES: HUD

uses the term "client" in a specific manner throughout the handbook. Also, in the handbook HUD sets specific parameters for "housing counseling."

When HUD reviews a Final Application, it does so against the provisions of the handbook. While HUD urges applicants to be resourceful and innovative in developing their counseling plans, equal stress is placed upon the plan's compliance with HUD's concept of comprehensive housing counseling.

file: APPLICAT.X2

Housing Counseling Agency
Fiscal Year Activity Report

Read the instructions on the back of this form.

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0261 (exp. 8/31/93)

Counseling agency name & address:

☐ Check here if this is a new address

Reporting Year:
from Oct 1, 199___
to Sep 30, 199___

Number of Clients Counseled This Report Period		All Counseling Activities	HUD Grant Activities
	1. Homeowners (mortgage paid off)		
	2. Mortgagors (own property covered by mortgage)		
	3. Potential Mortgagors (want to purchase housing)		
	4. Renters (occupy rental property)		
	5. Potential Renters (want to rent housing)		
	6. Homeless		
	7. Other		
	8. Total		
Race/Ethnicity:	a. American Indian / Alaskan Native		
	b. Asian / Pacific Islander		
	c. Black Non-Hispanic		
	d. Hispanic		
	e. White Non-Hispanic		

Results of Counseling			
Homeowners	9. Obtained a Home Equity Conversion Mort.(HECM)		
	10. Other		
	11. Total		
Mortgagors	12. Obtained a HECM		
	13. Brought mortgage current		
	14. Forbearance agreement		
	15. Mortgage assigned to HUD		
	16. Executed a deed-in-lieu		
	17. Sold their property		
	18. Mortgage foreclosed		
	19. Rented alternative housing		
	20. Other		
	21.Total		

		All Counseling Activities	HUD Grant Activities
Potential Mortgagors	22. Purchased housing		
	23. Decided not to purchase		
	24. Other		
	25. Total		
Renters	26. Purchased housing		
	27. Rented alt. housing		
	28. Other		
	29. Total		
Potential Renters	30. Purchased housing		
	31. Rented alt. housing		
	32. Other		
	33. Total		
Homeless	34. Occupied "transitional" housing		
	35. Occupied "emergency shelter"		
	36. Occupied permanent hsg. for handicapped		
	37. Entered public or prvt. section traditional hsg.		
	38. Other		
	39. Total		

Name, Title, & Signature of Person Authorized to Sign this Report :

x

Date :

Previous editions are obsolete.

form **HUD-9902** (3/9/95)
ref, Handbook 7610.1

Housing Counseling Client Survey

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0261 (Exp. 08/31/93)

Counseling Agency Name & Address: (completed by HUD office)

1. When you first went to the counseling agency, what kind of client were you? Check as many boxes as apply to you.

☐ was renting housing	☐ behind on rent payments
☐ wanted to rent housing	☐ current on rent payments
☐ landlord problem	☐ being evicted
☐ employed	☐ unemployed
☐ wanted to buy housing	☐ buying a house or condominium
☐ mortgage was current	☐ mortgage payments delinquent

2. Who interviewed you when you first went to the agency?

☐ a receptionist ☐ a counselor

3. Did the person who counseled you do any of the following to help you. Check as many boxes as apply to you.

☐ told you how they could help you
☐ suggested that you join a group counseling session
☐ referred you to other community agencies who could help you
☐ made recommendations to you about what you could do to solve your housing problem
☐ got in touch with your landlord or mortgage company to work out a plan for you to pay your back rent or past due mortgage payment
☐ got in touch with your creditors to work out a plan for you to pay your debts

4. If you own your house and are delinquent on your mortgage payments, did the agency do or recommend any of the following actions?

☐ a forebearance agreement with your mortgage company
☐ a deed-in-lieu of a foreclosure of your mortgage
☐ that you sell your house and obtain rental housing
☐ have you apply to your mortgage company for the assignment of your mortgage to HUD

5. Did your counselor impress you as a person who knew what he or she was doing?

☐ Yes ☐ No

6. Was the setting in which the counseling was conducted a private one so that other persons could not hear your conversation?

☐ Yes ☐ No

7. If you wanted rental housing, did the counselor discuss HUD rental housing programs for which you might be eligible?

☐ Yes ☐ No

8. Did the agency charge you for their services?

☐ Yes ☐ No

If "Yes," did the counselor explain that the charge would be based on a sliding scale and determined by your income?

☐ Yes ☐ No

If "Yes," did you consider the charge to be:

☐ reasonable ☐ too high

9. Did you participate in any group counseling sessions?

☐ Yes ☐ No

If "Yes," did you find the sessions helpful?

☐ Yes ☐ No

10. Was the counseling agency open during hours when it was convenient for you to obtain counseling?

☐ Yes ☐ No

If you answered "No," please indicate the hours when the agency was open to assist you.

Opened:	Closed:

11. If you want further counseling, will you:

☐ go back to the same agency ☐ go to another agency

If you checked "go to another agency," please tell us why.

Previous edition is obsolete

form HUD-9908 (5/91)
ref Handbook 7610.1

Housing Counseling Activity and Unit Log

U.S. Department of Housing and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No: 2502-0261 (exp. 7/31/93)

Public reporting burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0260), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Instructions. The grantee must use this format or one on which the grantee records at least the same information. Obtain HUD approval for use of an alternative format. **Grantees must follow the Grant Instructions regarding Client No. and Unit Claim.** If more space is needed, use more forms and attach them to the first one. Non-grant agencies may use this form at their option.

Interviewing Counselor's Name:	Client's Name and Address (street, city, State, zip code) :
FHA Case No. (If any) :	
Interview Date:	
Date Counseling Terminated:	Client Number :

Client Type: (check the box that indicates the status of the client when the client entered your workload via a screening interview. These client types correspond to those on form HUD-9902, Counseling Agency Activity Report.)

- ☐ Homeowner (mortgage paid off)
- ☐ Mortgagor (mortgage on property)
- ☐ Potential Mortgagor (wants to buy)
- ☐ Renter (occupies rental property)
- ☐ Potential Renter (wants to rent)
- ☐ Homeless
- ☐ Other:(specify)

Results of Counseling: (check the applicable box(es) at the time each result occurs. These results correspond to those on form HUD-9902. You may achieve more than one result for the same client.)

- ☐ Obtained a HECM
- ☐ Brought mortgage current
- ☐ Forbearance Agreement
- ☐ Mortgage assigned to HUD
- ☐ Executed Deed-In-Lieu
- ☐ Sold their property
- ☐ Mortgage foreclosed
- ☐ Rented alternative housing
- ☐ Purchased housing
- ☐ Decided not to purchase
- ☐ Occupied "transitional housing"
- ☐ Occupied "emergency shelter"
- ☐ Occupied permanent housing for handicapped
- ☐ Entered public or private sector traditional housing
- ☐ Other: (specify)

Interviewer's Notes:

Race/Ethnicity:

- ☐ American Indian / Alaskan Native
- ☐ Asian / Pacifica Islander
- ☐ Black Non-Hispanic
- ☐ Hispanic
- ☐ White Non-Hispanic

Housing Counseling Activity and Unit Log Page No.

Use as much space as necessary to record the counseling activity. Begin each new activity in a separate "activity" block.

Client's Name		Client No.
Date:	Time Start:	Time End:
Counselor's Initials:	Activity:	
		Unit Claim
Date:	Time Start:	Time End:
Counselor's Initials:	Activity:	
		Unit Claim
Date:	Time Start:	Time End:
Counselor's Initials:	Activity:	
		Unit Claim
Date:	Time Start:	Time End:
Counselor's Initials:	Activity:	
		Unit Claim

Previous editions are obsolete.

form **HUD-9921** (3/9/95)
ref. Handbook 7610.1

[FR Doc. 95–8438 Filed 4–5–95; 8:45am]
FILLING CODE 4210–27–C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–05–1320–01; WYW128322]

Environmental Statements; Availability, etc.; Antelope Coal Co., WY; Coal Lease Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the draft Environmental Assessment (EA) for the Antelope Coal Lease Application (WYW128322) and Notice of Public Hearing.

SUMMARY: This notice announces the availability of the draft EA for a coal lease application filed by Antelope Coal Company. The EA was prepared to assist the BLM in making a decision on the proposed lease. In addition, notice is also given that a public hearing will be held on April 26, 1995, to solicit public comment on the EA, the proposed sale, and the Fair Market Value (FMV) and Maximum Economic Recovery (MER) of the proposed lease tract.

DATES: The public hearing will be held at 6:30 p.m., MDT, on Wednesday, April 26, 1995, at the Holiday Inn, 1450 Riverbend Drive, Douglas, Wyoming. There will be an informal question and answer session starting at 6 p.m. MDT, before the formal hearing proceedings begin to answer questions regarding the Antelope coal lease application, or the leasing process. The EA is scheduled for release to the public in early April, 1995. The public comment period will end on Tuesday, May 30, 1995.

ADDRESSES: Comments, concerns, and requests for copies of the EA should be addressed to Casper District Office, BLM, Attn: Nancy Doelger, 1701 East ''E'' Street, Casper, Wyoming 82601.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs, 307–261–7600, FAX 307–234–1525, or contact the address listed above.

SUPPLEMENTARY INFORMATION: Antelope Coal Company filed a coal lease application on December 29, 1992, with the BLM pursuant to provisions of 43 CFR 3425.1 as a lease by application (LBA) for the following lands:

T. 41 N., R. 70 W., 6th P.M. Converse County, Wyoming
Sec. 30: Lots 15–18;
T. 41 N., R. 71 W., 6th P.M. Converse County, Wyoming
Sec. 25: Lots 5–8, 13, 14;
Sec. 26: Lots 9–11, 14, 15;
Total (applied for) 617.2 acres more or less.

The BLM is also considering two alternate tract configurations, which are discussed in the draft EA. The first alternate tract configuration would increase the size of the tract by adding the following lands to it:

T. 40 N., R. 71 W., 6th P.M., Wyoming
Section 34: Lot 1;
T. 41 N., R. 71 W., 6th P.M., Wyoming
Section 26: Lots 12 and 13;
Section 27: Lots 13 and 16;
Total added to lease: 205.63 acres
Total under this alternative: 822.83 acres

The second alternate tract configuration would reduce the size of the tract by removing the following lands:

T. 41 N., R. 71 W., 6th P.M., Wyoming
Sec. 26: Lots 10, 11, 14 and 15.
Total subtracted from lease: 161.77 acres
Total under this alternative: 455.43 acres.

It is estimated that the tract as applied for by Antelope Coal Company contains approximately 57 million tons of recoverable coal. The lease application area is north of and contiguous with the existing Antelope Mine, operated by the Antelope Coal Company. The company applied to lease the proposed Antelope tract as a maintenance tract for the Antelope Mine. Written comments will be accepted from the date of publication of this Notice in the **Federal Register** through May 30, 1995. Comments may be submitted to the address listed above in writing, or expressed verbally at the hearing.

Alan R. Pierson,

State Director.

[FR Doc. 95–8443 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–22–M

[ES–020–05–1430–00]

Planning and Environmental Analysis, Newton County, Mississippi

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: At this time the Bureau of Land Management (BLM), Eastern States, Jackson District, announces that a planning analysis and environmental assessment will be completed for the following described land.

Choctaw Meridian, Newton County, Mississippi

T. 6 N., R. 12 E.,
Sec. 21, SE¼ NE¼.

This planning and environmental analysis is being prepared to determine the suitability of the above tract of land for disposal under authority of the Color-of-Title Act of December 22, 1928 (amended by 67 Stat. 227; 43 U.S.C. 1068, 1068a).

DATES: The Bureau of Land Management is asking the public for comments on issues which relate to the preparation of the planning analysis with respect to the above described land. Anyone wishing to comment has until May 17, 1995 to send remarks to the address given below.

FOR FURTHER INFORMATION CONTACT: Mark H. Davis, Bureau of Land Management, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206, telephone number: 601–977–5400.

SUPPLEMENTARY INFORMATION: This planning and environmental analysis will be prepared in accordance with section 202 of the Federal Land Policy and Management Act of 1976 and 43 CFR 1610.8(b).

The planning analysis and environmental assessment will be prepared by an interdisciplinary team of specialists. Records concerning preparation of the document will be available at the Jackson District Office.

Dated: March 28, 1995.

Robert V. Abbey,

District Manager.

[FR Doc. 95–8480 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–GJ–M

[MT–020–1610–00]

Notice of Intent to Plan

AGENCY: Bureau of Land Management (BLM), Montana/Dakotas, Interior.

ACTION: Notice.

SUMMARY: An environmental document will be prepared for proposed areas of critical environmental concern (ACECs) in the South Dakota Resource Area, Dakotas District, North Dakota; and the Powder River and Billings Resource Areas, Miles City District, Montana. The document will amend three resource management plans (RMPs): the Billings RMP (1983), the Powder River RMP (1984) and the South Dakota RMP (1985). It will be based on the existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act of 1976. The document will guide future management decisions for areas designated ACEC and is scheduled for completion by September 1996.

DATES: Any nominations, issues, concerns or alternatives should be submitted to BLM on or before May 15, 1995.

ADDRESSES: All submissions should be sent to the following address: BLM, Mary Bloom, Team Leader, Miles City Plaza, Miles City, Montana 59301.

FOR FURTHER INFORMATION CONTACT: Mary Bloom, Team Leader, (406) 232–7000.

SUPPLEMENTARY INFORMATION: An ACEC is an area within the public lands where special management attention is required to protect important historic, cultural or scenic values, fish and wildlife resources or other natural systems, or to protect life and safety from natural hazards.

In 1992, during the public participation phase on BLM's Draft Miles City District Oil and Gas RMP/EIS Amendment, the Sierra Club and The Wilderness Society proposed six areas for ACEC designation: Fossil Cycad, Pryor Mountains, Pompeys Pillar, Bridger Fossil-Red Dome, Finger Buttes, and Deadhorse Badlands. When the Record of Decision (1994) for the document was issued, it was decided that these areas and two additional areas presented in the document: Meeteetse Spires and Weatherman Draw, would be analyzed in a separate Plan Amendment.

The planning area for this Plan Amendment consists of BLM-administered lands in proposed ACECs within the Billings, Powder River and South Dakota Resource Areas. The purpose and need, analysis process and request for nominations are included below to solicit your participation in this process.

The proposed action is to establish areas that have special values and require special management attention as Areas of Critical Environmental Concern and to protect and enhance these areas to provide opportunities for scientific research and recreation for the public. The Federal Land Policy and Management Act (FLPMA) requires that priority be given to designation and protection of ACECs. The ACEC designation indicates to the public that BLM recognizes the area as having significant values and has established special management measures to protect those values. Designation also serves as a reminder that significant values or resources exist which must be accommodated in future management actions or land use proposals in or near the ACEC.

The public is asked to assist BLM in identification of ACECs. Nominations must meet both the relevance and importance criteria under the Code of Federal Regulations: 43 CFR 1610.7–2(a) to be considered as a potential ACEC.

The following are the nominations already received by BLM and the groups' reasons for the nomination. These areas have not yet been evaluated by BLM for the areas' relevance and importance. The Pryor Mountains (75,000 public surface acres, Billings resource Area, Carbon County, Montana) are proposed for ACEC designation for the significant cultural values, sensitive plants and animals, exceptional scenic values, nationally significant examples of natural processes and nominated National Natural Landmarks. The Red Dome-Bridger Fossil Area (3,528 public surface acres, Billings Resource Area, Carbon County, Montana) is proposed for ACEC designation because of paleontological phenomena, scenic values, and landforms that exemplify a natural system or process. A proposed and a designated National Natural Landmark located within the area indicate national importance. Pompeys Pillar (431 public surface acres, Billings Resource Area, Yellowstone County, Montana) is proposed for ACEC designation because of significant cultural values and national importance. Deadhorse Badlands (40,000 public surface acres, Powder River Resource Area, Carter County, Montana) is proposed for ACEC designation because of scenic values, naturalness, fragile and irreplaceable badlands features, and size. Finger Buttes (3,800 public surface acres, Powder River Resource Area, Carter County, Montana) is proposed for ACEC designation because of scenic values and a rare plant species. The Fossil Cycad Area (320 public surface acres, South Dakota Resource Area, Fall River County, South Dakota) was formerly a national monument. It is proposed for ACEC designation because of the significant paleontological resource and national importance.

The BLM previously nominated Meeteetse Spires and Weatherman Draw. Meeteetse Spires (960 public surface acres, Billings Resource Area, Carbon County, Montana) contains two rare plants: Shoshonea pulvinata and Townsendian spathulata. It is enjoyed by the recreating public because of the spectacular scenery. The BLM would manage this scenic area to protect the rare plants while allowing recreational use by the public. Weatherman Draw (2,250 public surface acres, Billings Resource Area, Carbon County, Montana) contains a unique cultural resource important for scientific research and of sacred value to Native Americans. The BLM would manage the area to preserve the site, and make it available for scientific research and for public interpretation.

The public is also requested to assist the BLM in the identification of issues. Examples of potential issues (problems, concerns) are: mineral development, recreational use and economics. Alternatives will be developed to present a range of feasible management actions. The ''No Action Alternative'' will be included in accordance with 43 CFR 1502.14(d) and represent the continuation of current management.

Meetings for the areas proposed for ACEC designation are not yet scheduled. If meetings are scheduled, the public will be notified through local news releases.

The documentation on BLM's evaluations of relevance and importance will be made available at the BLM Powder River, Billings and South Dakota Resource Area offices.

Development of this document will require involvement of professionals from these disciplines: archaeology, economics, forestry, geology, land use planning, minerals, range management, recreation, realty, soil science and wildlife management. The public will be provided the opportunity to review and comment on issues and ACECs developed by BLM and to identify new issues and potential ACECs. A mailing list is being developed and will be used to communicate with and solicit comments from local, state and federal agencies, Native American tribes, the Sierra Club, The Wilderness Society, and the public at large which may be affected by the plan. As the planning process proceeds, these publics will be encouraged to participate.

The BLM is seeking information from individuals, organizations, and agencies who may be interested or affected by the proposals. Specifically, we request any nominations, issues, concerns or alternatives that should be addressed in the plan.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of ACECs.

Darrel Pistorius,

Acting District Manager.

[FR Doc. 95–8489 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–DN–P

[CA–930–5410–00–B047; CACA 33365]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 40.00 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal

Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858. Serial No. CACA 33365.

T. 12 S., R. 3 W., San Bernardino Meridian,
Sec. 29, SE¼NE¼.
County—San Diego.
Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: March 27, 1995.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 95–8417 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–40–P

[CO–932–4310–00; COC–55323]

Amendment to Proposed Withdrawal; Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to amend their withdrawal application for the Grand Junction Archaeological Sites to include an additional 360 acres for the Fruita Paleontological site. This notice also proposes to increase the term for the entire withdrawal from 20 years to 50 years. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments on the proposed withdrawal or request for public meeting must be received on or before July 5, 1995.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, Bureau of Land Management, 2850 Youngfield Street, Lakewood Colorado, 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 239–3706.

SUPPLEMENTARY INFORMATION: On March 21, 1995, the Secretary approved the petition to allow the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location or entry under the general land laws, including the mining laws, subject to valid existing rights:

Grand Junction Archaeological Sites Ute Principal Meridian Fruita Paleontological Site

T. 1 N., R. 3 W.,
Sec. 13, SW¼SE¼ and S½SW¼;
Sec. 24, W½NE¼ and NW¼.

The area described contains approximately 360 acres of public land in Mesa County.

The purpose of this withdrawal is to protect sites containing archaeological, paleontological, and cultural values.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this withdrawal amendment. If the authorized officer determines that a meeting should be held, the meeting will be scheduled in accordance with 43 CFR 2310.3–1(c)(2).

Any persons who desire to submit comments, suggestions, or objections or who desire a public meeting for the purpose of being heard on this proposed action must submit a written request to the Colorado State Director within 90 days of the date of publication of this notice.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land herein described shall be segregated from operation of the public land laws as specified above, unless the application is denied or cancelled or the withdrawal is made prior to that date.

This land will continue to be managed by the Bureau of Land Management.

Jenny L. Saunders,

Chief, Branch of Realty.

[FR Doc. 95–8488 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–JB–P

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meeting of the FGDC Coordination Group

AGENCY: Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to invite public participation in a meeting of the FGDC Coordination Group. Major topics for the meeting include fostering partnerships to promote the development of the National Spatial Data Infrastructure (NSDI), and devising strategies to effectively involve the broad geospatial data community in the actions and decisions of the FGDC.

TIME AND PLACE: May 10, 1995, from 1:30 p.m. until 4 p.m. The meeting will be held in Room Potomac 5, the Hyatt Regency, Crystal City, 2799 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jennifer Snyder, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; telephone (703) 648–5514; facsimile (703) 648–5755; Internet ''gdc@usgs.gov''.

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal agencies engaged in geospatial data activities. The FGDC Coordination Group oversees the FGDC subcommittees and working groups that address the establishment of standards for data content, quality, and transfer; encourages the exchange of information and the transfer of data; and organizes the collection of geographic data to reduce duplication of effort. This meeting of the FGDC Coordination Group will follow the 1995 National GeoData Forum being held at the same location. A primary focus of the Forum is to involve the entire geospatial data community in building partnerships for the development of the NSDI.

Dated: March 28, 1995.

James R. Plasker,

Associate Chief, National Mapping Division.

[FR Doc. 95–8416 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Manzanar National Historic Site Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 1:00 p.m. (PST) on Friday, April 28, 1995 at the County of Inyo Administrative Center, Board of Supervisors' Chambers, 224 N. Edwards Street (U.S. Highway 395), Independence, California to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site.

The Advisory Commission was established by Public Law 102–248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including the preparation of a general management plan for the Manzanar National Historic Site.

Members of the Commission are as follows:

Mr. William Michael, Acting Chairperson
Mr. Ronald Izumita
Ms. Sue Embrey
Mr. Mas Okui
Mr. Keith Bright
Mr. Glenn Singley
Mr. Richard Stewart
Mr. Vernon Miller
Mr. Gann Matsuda
Ms. Rose Ochi
Ms. Martha Davis

The main agenda items at this initial meeting of the Commission will include the following:

(1) Review of the provisions of the charter establishing the Commission.
(2) Designation by the members of the Commission of a Chairperson.
(3) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.
(4) Review of the draft park General Management Plan.
(5) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

This meeting is open to the public. It will be recorded for documentation, and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Commission. A transcript will be available after May 30, 1995. For a copy of the minutes contact the Superintendent, Manzanar National Historic Site, P.O. Box 426, Independence, California 93526.

Dated: March 24, 1995.

Ross R. Hopkins,

Superintendent, Manzanar National Park.

[FR Doc. 95–8420 Filed 4–5–95; 8:45 am]
BILLING CODE 4310–70–P

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Nebraska and Kansas in the Possession of the Nebraska State Historical Society, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the provision of the Native American Graves Protection and Repatriation Act, 25 U.S. C. 3003(d), of the completion of an inventory of Native American human remains and associated funerary objects from forty-six (46) sites in Nebraska currently in the possession of the Nebraska State Historical Society, Lincoln, NE.

A detailed inventory and assessment of these human remains and associated funerary objects has been made by the Nebraska State Historical Society professional curatorial, archeological staff, and outside specialists in physical anthropology, in consultation with representatives of the Pawnee Tribe of Oklahoma and twenty-nine (29) other tribes.

In 1990 and 1991, the Nebraska State Historical Society repatriated human remains representing over 550 individuals and over 33,000 associated funerary objects from thirty-three (33) sites to the Pawnee Tribe of Oklahoma. Additional human remains and cultural objects from twelve (12) of these sites have since been discovered as part of the inventory process. These include: 25BU1 (the Linwood site) in Butler County, NE, 2 bone fragments representing 2 individuals previously repatriated; 25HM2 (the Burial Ridge One site) in Hamilton County, NE, 5 bone fragments from one previously repatriated individual; 25MK14 in Merrick County, NE, 2 funerary objects formerly associated with a previously repatriated burial; 25NC3 (the Wright site) in Nance County, NE, 22 bone fragments from two previously repatriated individuals; 25NC11 (the Vogel site) in Nance County, NE, a bone fragment from one previously repatriated individual; 25NC20 (the Genoa Village site) in Nance County, NE, bone fragments and 13 funerary objects from one previously repatriated individual; 25NC23 in Nance County, NE, 47 bone fragments and one funerary object formerly associated with two previously repatriated individuals; 25PK1 (the Clarks site) in Polk County, NE, 2 bone fragments representing two individuals and 98 funerary objects formerly associated with three previously repatriated burials; 25PT1 (the Larson site) in Platte County, NE, isolated bone fragments and one bone fragment representing one individual; 25PT31 (the Christman site) in Platte County, NE, an isolated bone fragment representing one individual; 25SD2 (the Leshara site) in Saunders County, NE, 2 bone fragments from one previously repatriated individual; and 25WT1 (Pike Pawnee or the Hill Farm site) in Webster, NE, 4 bone fragments and 129 funerary objects formerly associated with three individuals. Each of these twelve (12) sites have been identified as Pawnee (1750–1876) occupations based upon historic written records, cultural continuities, and geographical coincidence with identified Pawnee sites.

The Nebraska State Historical Society also intends to repatriate human remains representing a minimum of 71 individuals and 84 funerary objects from eighteen (18) sites identified as Central Plains tradition. These include: 14SA1 (the Whiteford Ossuary) Saline County, Kansas, 1 individual; 25CC1 (the Ashland site) Cass County, NE, 16 individuals with 74 funerary objects; 25CC17 (the Theodore Davis site) Cass County, NE, 1 individual; 25CC29 (the Kunkel Ossuary) Cass County, NE, 13 individuals with 3 funerary objects; 25CC214, Cass County, NE, 1 individual; 25CD3 (the Wiseman site), Cedar County, NE, 2 individuals; 25DO3 (the Bexten site) Douglas County, NE, 1 individual; 25FT4 (the Medicine Creek site) Frontier County, NE, 1 individual; 25GY2 (the Wittwer site) Greeley County, NE, 1 individual; 25JF4 in Jefferson County, NE, 1 individual with 4 funerary objects; 25MD3 in Madison County, NE, 1 individual; 25NC12 (the Elmer Cunningham site) Nance County, NE, 1 individual; 25NH1 (the Heywood site) in Nance County, NE, 12 individuals; 25SD28 in Saunders County, NE, 1 individual; 25SY1 (the Farnsworth or Fremont I site) in Sarpy County, NE, 4 individuals; 25SY11 (the Sieh site) in Sarpy County, NE, 1 individual; 25WN3 (the Kelly site) in Washington County, NE, 12 individuals; and 25WN5 (the Renne site) in Washington County, NE, 1 individual with 3 funerary objects. Each of these sites have been identified as

representing Central Plains tradition (A.D. 1000—1400) components based on the presence of previously defined diagnostic traits involving: ceramic decoration, stone tool form and function, architecture, chronology, mortuary custom, subsistence pattern, settlement pattern and geographic location.

The Central Plains tradition is recognized by many anthropologists, based on a preponderance of the evidence, as ancestral to the present-day Pawnee/Arikara, and possibly the Wichita, through recognition of broad similarities and continuity in material culture, geography, and architecture. In addition, Pawnee and Arikara oral traditions conform to anthropologically-based evidence showing cultural affiliation between these groups and the Central Plains tradition. The Wichita and Arikara have agreed to allow the Pawnee to claim these remains.

The Nebraska State Historical Society also intends to repatriate other human remains representing a minimum of 28 individuals and 228 funerary objects from sixteen (16) sites within the Pawnee aboriginal lands. These include: 25AP54 part of the Elkhorn Valley Project in Antelope County, NE, 1 individual; 25BF15 in Buffalo County, NE, 1 individual with 1 funerary object; 25BF26 in Buffalo County, NE, 1 individual; 25BU1 in Butler County, NE, 1 individual with 14 funerary objects; 25BU11 in Butler County, NE, 1 individual; 25CU1 (the Forsythe site) in Custer County, NE, 2 individuals; 25FR32 (the West Bloomington Ossuary) in Franklin County, NE, 1 individual with 151 funerary objects; 25GY0 in Greeley County, NE, 1 individual; 25HN0 in Harlan County, NE, 3 individuals with 3 funerary objects; 25HN2 (the Stevenson site) in Harlan County, 9 individuals with 58 funerary objects; 25HT14 in Holt County, NE, 1 individual; 25HW00 in Holt County, NE, 1 individual; 25HW9 (the Bert Mortensen site) in Howard County, NE, 1 individual; 25NC0 in Nance County, NE, 1 individual; 25SM16 in Sherman County, NE, 1 individual; and 25VY0 in Valley County, NE, 1 individual with 4 funerary objects.

The unrebutted evidence is that each of these sites is located within Pawnee aboriginal lands as adjudicated by the Indian Claims Commission. These lands were occupied historically by the Pawnee Tribe to the exclusion of other tribes, as adjudicated by the Indian Claims Commission; and the Pawnee Tribe has a strong attachment to and affiliation with its aboriginal homeland by virtue of its long occupation spanning centuries. Thus, the totality of these circumstances establish a Pawnee cultural affiliation with these sites by a preponderance of the evidence in the opinion of the Nebraska State Historical Society. Moreover, this opinion and finding of cultural affiliation is bolstered by a careful evaluation of these remains by Nebraska State Historical Society staff and other experts, mentioned in paragraph two of this Notice, which determined that the remains from these sites cannot be assigned to any other tribal group or other defined archeological context. On the basis of all of the foregoing types of evidence, these remains are reasonably believed by the Nebraska State Historical Society to be culturally affiliated with the Pawnee Tribe.

Based on the above mentioned information, officials of the Nebraska State Historical Society have determined that pursuant to 25 U.S. C. 3001 (2), there is a relationship of shared group identify which can be reasonably traced between these human remains and funerary objects and the Pawnee Tribe of Oklahoma. All of the objects are reasonably believed to have been placed with or near individual Native American human remains either at the time of death or later as part of a death rite or ceremony.

Inventory of the human remains and funerary objects and review of accompanying documentation from the forty-six (46) sites listed above indicate that no known individuals were identifiable.

The notice has been sent to officials of the Pawnee Tribe of Oklahoma, the Three Affiliated Tribes, and the Wichita and Affiliated Tribes. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains and funerary objects should contact Gail DeBuse Potter, Senior Museum Curator, Nebraska State Historical Society, PO Box 82554, Lincoln, NE 68501, telephone (402) 471–4759, fax: (402) 471–3314, on or before May 22, 1995. Repatriation of the objects of the Pawnee Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: March 24, 1995.

Francis P. McManamon,

Departmental Consulting Archeologist,Chief, Archeological Assistance Division.

[FR Doc. 95–8419; Filed 4–5–95; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement in Re Eagle-Picher Industries, Inc.

Notice is hereby given that a proposed Settlement Agreement among the United States, the States of Michigan, Oklahoma, and Arizona and Debtor Eagle-Picher Industries, Inc. and certain of its subsidiaries was lodged on March 28, 1995, with the United States Bankruptcy Court for the Southern District of Ohio in *In re Eagle-Picher Industries, Inc.*, No. 1–91–00100. Under the Agreement, the Debtors agree to an allowed general unsecured claim for the United States of $41,016,000 in the Debtors' bankruptcy proceeding for response costs and natural resource damages under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, at the following twenty-three (23) sites: The Albion Sheridan Site in Albion, Michigan; the Auto-Ion Site in Kalamazoo, Michigan; the Carver Scrap Salvage Site in Carterville, Missouri; the Cedartown Site in Cedartown, Georgia; the Cemetery Site in Oakland County, Michigan; the Cherokee County Site in Cherokee County, Kansas; the Fisher-Calo Site in Kingsbury, Indiana; the Ft. Wayne Reduction Site in Ft. Wayne, Indiana; the Great Lakes Asphalt Site in Boone County, Indiana; the Howe Valley Site in Elizabethtown, Kentucky; the Laskin/Poplar Site in Jefferson, Ohio; the Northside Sanitary Landfill Site in Zionville, Indiana; the Oronogo-Duenweg Mining Belt (Jasper County) Site in Jasper County, Missouri; the Rasmussen Dump Site in Livingston County, Michigan; the Rose Township Site in Oakland County, Michigan; the Solvents Recovery Site in Southington, Connecticut; the Springfield Township Site in Oakland County, Michigan; the Tar Creek Site in Ottawa County, Oklahoma; the Thermo-Chem Site in Muskegon, Michigan; the Transicoil Site in Worcester, Pennsylvania; the Verona Wellfield/Thomas Solvent Site in Battle Creek, Michigan; the Wayne Waste Oil/ Wayne Reclamation Site in Columbia City, Indiana; and the Xtron Site in Blandings, Utah. The Settlement Agreement includes a covenant not to sue for these sites as described in the Agreement under Sections 106 and 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. The Settlement Agreement also provides that certain obligations and liabilities arising from prepetition acts, omissions, or conduct of Eagle-Picher at any

Additional Sites not owned by the debtors will be discharged under the bankruptcy laws but will be liquidated and satisfied as general unsecured claims if and when the United States or the States undertake enforcement activities in the ordinary course. Finally, the Settlement Agreement provides the United States with an allowed claim of $1,176,000 for civil penalties for violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, at an Eagle-Picher facility in Joplin, Missouri.

The Department of Justice will receive comments relating to the proposed Settlement Agreement for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re Eagle-Picher Industries, Inc., et al.*, D.J. Ref. No. 90–11–3–747. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney for the Southern District of Ohio, U.S. Post Office & Courthouse, 5th & Walnut Streets, Room 220, Cincinnati, Ohio 45202; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, 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 Settlement Agreement 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 of the Settlement Agreement without attachments, please enclose a check in the amount of $13.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library. In requesting a copy of the Settlement Agreement with attachments, please enclose a check in the amount of $33.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–8484 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *City of Fort Morgan*, Civil Action No. 94–C–492, was lodged on March 21, 1995 in the United States District Court for the District of Colorado. The consent decree settles an action brought under the Clean Water Act (the ''Act''), 33 U.S.C. 1251 et seq. seeking an injunction and civil penalties for the City of Fort Morgan's violations of the Act and for violations of the General Pretreatment Regulations, 40 CFR Part 403. Pursuant to the consent decree, the City has agreed to pay a civil penalty of $268,000 and agreed to institute a comprehensive compliance program to bring the City into compliance with all requirements of the pretreatment regulations.

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. *City of Fort Morgan*, DOJ Ref. #90–5–1–1–4041.

The proposed consent decree may be examined at the office of the United States Attorney, 1961 Stout Street, Suite 1200, Denver, Colorado 80294; 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 $5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section.

[FR Doc. 95–8483 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Petroleum Environmental Research Forum (''PERF'') Project No. 92–25

Notice is hereby given that, on December 16, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Conoco Inc., acting on behalf of the participants in the PERF Project No. 93–25, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Amoco Oil Co., Naperville, IL; BP Oil Co., Cleveland, OH; Conoco Inc., Houston, TX; Gas Research Institute, Chicago, IL; Oryx Energy, Dallas, TX; Texaco Inc., Port Arthur, TX; ANR Pipeline, Detroit, MI; Chevron Research & Technology, Richmond, CA; Exxon Research & Engineering Co., Florham Park, NJ; Mobil Inc., Princeton, NJ; Shell Development C., Houston, TX; and Union Oil Company of California, Brea, CA.

The nature and objectives of the research program performed in accordance with PERF Project No. 93–25 are to perform remediation studies of contaminated groundwater via air sparging, biosparging, or other innovative delivery systems.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–8485 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 93–51]

Frank's Corner Pharmacy; Revocation of Registration

On June 4, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Frank's Corner Pharmacy (Respondent), of Detroit, Michigan, proposing to revoke its DEA Certificate of Registration, BF1175466, and deny any pending applications for renewal of such registration. The statutory basis for the Order to Show Cause was that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4).

On July 23, 1993, Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held in Detroit, Michigan on May 3 and 4, 1994. On August 29, 1994, Judge Tenney issued his Findings of Fact, Conclusions of Law and Recommended Ruling

recommending that Respondent's registration be suspended for a period not exceeding six months. The Government filed exceptions to Judge Tenney's opinion on September 19, 1994. Respondent filed its exceptions to Judge Tenney's opinion and its response to the Government's exceptions on September 30, 1994, and filed corrections to those exceptions on October 11, 1994.

On October 14, 1994, the administrative law judge transmitted the record of these proceedings, including the exceptions, to the Deputy Administrator. The Deputy Administrator has considered the record in its entirety and hereby issues his final order pursuant to 21 CFR 1316.67, based upon the findings of fact and conclusions of law as set forth herein.

The administrative law judge found that, in September 1986, Alvin Goldstein, R.Ph (Mr. Goldstein), a pharmacist licensed by the State of Michigan, became a 50% stockholder owner of Respondent, a pharmacy licensed and operated in the State of Michigan. From September 1987 onward, Respondent's principal stockholder and operator has been Mr. Goldstein.

On October 5, 1989, the Michigan Board of Pharmacy (the Board) filed an administrative complaint charging Respondent and Mr. Goldstein with violations of Michigan regulations pertaining to controlled substance recordkeeping and shortages of controlled substances based upon an audit conducted by the Board on June 29, 1988. The Board's initial order was appealed to the Michigan Circuit Court for the County of Oakland where it was affirmed in part, and reversed in part, on January 14, 1994. The circuit court affirmed the Board's order to the extent it found that Respondent and Mr. Goldstein: (1) Were responsible for shortages of controlled substances (including Darvocet, Tylenol with codeine #4, and Valium); (2) were negligent in the practice of pharmacy; (3) were incompetent under applicable Michigan State law based upon a 14% shortage of Darvocet; (4) failed to comply with a state administrative subpoena by not supplying the state investigators with records required to be kept pursuant to Michigan law; and (5) failed to produce drug utilization reports as required under Michigan law.

The circuit court remanded the case back to the Board which issued its Amended Final Order on Remand on April 22, 1994. The amended order suspended Respondent's controlled substances license for a period of three months. Mr. Goldstein was ordered to pay a $5,000 fine and placed on probation for one year and Respondent pharmacy also was placed on probation for one year.

On February 28, 1991, DEA conducted an audit of four controlled substances covering the period June 6, 1990 through February 28, 1991, following reports of excessive purchases of controlled substances by Respondent from local drug distributors. The audit revealed a shortage of 1,870 dosage units of Valium 10 milligram tablets.

Respondent's computer dispensing records for the period covering February 2, 1990 through February 7, 1991, revealed that 78 entries lacked corresponding paper prescriptions which should have been retained by Respondent. Mr. Goldstein subsequently found, and produced at the hearing, a number of prescriptions which he maintained had been accidentally placed at his home with other prescriptions for non-controlled substances. Judge Tenney found that Mr. Goldstein was responsible for the unaccounted prescriptions.

In addition, the investigation revealed that Respondent dispensed a combination of glutethimide (brand name ''Doriden'') and Tylenol #4, a combination known to have a high abuse potential and which typically is not prescribed for a legitimate medical purpose. Mr. Goldstein testified that he did not agree with manufacturers' guidelines with respect to glutethimide because new studies may refute those guidelines. He also testified that he did not receive any information from the State of Michigan, the DEA or any other source notifying him that glutethimide in combination with Tylenol #4 is dangerous or should not be prescribed in excess of seven dosage units.

Judge Tenney found that Mr. Goldstein knew or should have known of the dangers of combining the controlled substances and chose to ''shut his eyes'' while filling prescriptions. He further found that the prescriptions were not issued in the usual course of professional treatment.

On several occasions Respondent dispensed two prescriptions of the same or similar controlled substance to the same individual within days of dispensing the original prescription. The prescriptions in question typically were issued by different physicians. In one such example, a physician issued an individual a prescription for 30 dosage units of Tylenol #3 on January 24, 1990, which was dispensed by Respondent on January 25, 1990. On January 29, 1990, a second physician issued a 30 dosage unit prescription for Tylenol #4 to the same individual, which was dispensed by Respondent on the same date-four days after the initial prescription was dispensed.

This patter continued approximately every two months through February 1991, with the individual obtaining two or more prescriptions for Tylenol #3 and #4, from a combination of four physicians, which Respondent would subsequently dispense within days of each prescription. At the hearing on this matter, Mr. Goldstein testified that he had contacted each of the prescribing physicians who indicated that, although the individual was a drug addict, Mr. Goldstein should not be concerned about the prescriptions.

Prescriptins written for two other individuals were filled under similar circumstances. Respondent received a prescription issued to one individual for 30 dosage units of Tylenol #3 on June 4, 1990, which was dispensed the same day. Respondent then dispensed another prescription for Tylenol #3 written to the same person by a second physician on June 7, 1990. Under the instructions of the first prescription, this individual should not have finished the prescription for seven days. Respondent dispensed the second prescription only three days after the first.

On January 10, 1990, a third individual was issued a prescription for 30 dosage units of Tylenol #4 with one refill. This prescription was dispensed by Respondent on January 15, 1990. Two days later, Respondent dispensed a second prescription for 30 dosage units of Tylenol #4 to the individual based on the prescription of a different physician. Throughout 1990, this individual received two prescriptions for Tylenol # approximately every two months, from two different physicians. The prescriptions were dispensed by Respondent within days of each other. One physician informed Mr. Goldstein that this individual was a codeine addict.

The DEA investigator, who testified at the hearing, placed some reliance on the number of days set forth in Respondent's computer records as to the amount of days that should pass prior to refilling prescriptions. In response, Mr. Goldstein testified that his computer record of the number of days that should pass prior to refiling a prescription is an arbitrary number and does not represent the number of days that should pass before a prescription is refilled. Judge Tenney, while accepting Mr. Goldstein's explanation of the numbers, found that the practice of dispensing prescriptions for the same controlled substances to one patient, from several doctors, over an excessive

period of time to be in violation of 21 CFR 1306.04.

The computer printout of prescriptions from Respondent obtained through the audit revealed that one individual was dispensed 40 Tylenol #3 tablets two times on January 17, 1990, based on one prescription. On April 5, 1990, a ''double entry'' also was noted for a prescription for Valium to the same person. Mr. Goldstein testified that the individual required two separate identification numbers for insurance billing purposes, so that Respondent could bill the insurance carrier for the cost of the prescription and Medicaid for the co-payment. Mr. Goldstein offered the same explanation for the ''double dispensing' of Tylenol #3 to another individual on November 26, 1990.

The administrative law judge also found persuasive evidence of other recordkeeping and dispensing violations, including dispensing a prescription without a DEA registration number on the prescription; dispensing three refills of Tylenol #3 to an individual without authorization from the prescribing physician; and dispensing a prescription that was not signed by the issuing physician.

Judge Tenney noted several possible mitigating factors. First, Respondent is located in a low social economic area where many patients are Medicaid recipients. Second, Mr. Goldstein's contentions that he was not informed that glutethimide had been reclassified from a Schedule III to a Schedule II controlled substance, nor was he put on notice as to any potential danger concerning glutethimide. Third, Mr. Goldstein testified, as evidence toward his care in dispensing controlled substances, that he would confiscate prescriptions that he felt were not legitimate.

In determining whether Respondent's continued registration by DEA would be inconsistent with public interest, as that term is used under 21 U.S.C. 823 and 824, the Deputy Administrator considers the following factors set forth in 21 U.S.C. 823(f):

(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; and

(5) Such other conduct which may threaten public health and safety.

The Deputy Administrator is not required to make findings with respect to each of the above enumerated factors, but, instead, has the discretion to give each factor the weight he deems appropriate, depending on the facts and circumstances of each case. *See, Henry J. Schwartz, Jr., M.D.*, 54 16422 (1989).

The administrative law judge found that the Government had met its burden of proof with respect to factors (1), (2), (4), and (5) as set forth under 21 U.S.C. 823(f). Factor (1) was met based upon the Michigan Board of Pharmacy proceedings taken against Respondent and Mr. Goldstein. The ultimate findings established significant shortages for several controlled substances pursuant to an audit completed in 1989, and also encompassed other recordkeeping violations.

Judge Tenney found that the DEA had met its burden of proof with respect to Factor (2) based upon indications from Respondent's records that Respondent had dispensed unauthorized prescriptions as reflected in the fact that Respondent could not account for 19 paper copies of prescriptions. Additionally, Respondent, on numerous occasions, dispensed a prescription refill before the prior prescription could have been completely consumed by the patient, as determined by the prescribing physician's directions or based on the estimates Respondent had placed in its dispensing records, and that on many occasions the original and the refills were issued by different physicians. Judge Tenney noted that a pharmacy may be found in violation of the public interest where the pharmacy dispensed controlled substances before the prior expiration period had expired and based upon evidence that the pharmacy had accepted many prescriptions from various physicians for the same substance and patient. *See Ralph J. Bertolino's Pharmacy*, 55 FR 4729 (1990). Additionally, where Respondent knowingly dispensed these refills to individuals who were characterized by their physicians as ''addicts'', Respondent's actions pose a threat to public health and safety.

The administrative law judge found factor (4) was met by evidence that Respondent dispensed a prescription without a physician's signature and dispensed another prescription without a DEA registration number in violation of 21 CFR 1306.04(a). Further, the shortages in Respondent's controlled substance inventory, as revealed by the DEA audit, constitute a violation of 21 U.S.C. 842(a)(5).

Finally, concerning factor (5), and with regard to Mr. Goldstein's testimony that the glutethimide and Tylenol prescriptions were ''legal'' and therefore he was not concerned about dispensing combinations of these drugs, Judge Tenney found that a pharmacy has a responsibility, with respect to controlled substances, to do more than merely fill prescriptions as written by a physician. A pharmacy is obligated to refuse to fill a prescription if it knows, or has reason to know that the prescription was not written for a legitimate medical purpose. *Medic-Aid Pharmacy*, 55 FR 30043 (1989). Indications that a prescription is not for legitimate medical use include filling prescriptions for customers who received controlled substances in quantities far exceeding those recommended by the Physician's Desk Reference, too frequently and for excessive periods of time. *Id.* Verification of the prescription with the prescribing doctor is not necessarily enough. *See United States* v. *Hayes*, 595 F. 2d 258, 260 (5th Cir. 1989). Judge Tenney found that Mr. Goldstein purposely ignored suspicious prescribing practices by dispensing prescriptions clearly not issued for a legitimate medical purpose by presuming that the prescriptions were legal because the physicians' signatures did not appear to be forged.

Judge Tenney recommended that Respondent's registration be suspended for a period not to exceed six months. He based this recommendation on the fact that the Michigan Board of Pharmacy previously had suspended Respondent's license for three months and had placed Mr. Goldstein on probation for a year and ordered payment of a fine of $5,000, and, therefore, had exacted ''full and fair retribution'' for Respondent's actions. *Charles A. Buscema, M.D.*, 59 FR 42857 (1994).

The Deputy Administrator has carefully reviewed the entire record and adopts all of the administrative law judge's findings of fact, with the exception of the following: (1) Mr. Goldstein's testimony concerning the arbitrary nature of his computer records pertaining to the number of days that should pass before a prescription is refilled; (2) Mr. Goldstein's testimony regarding instances of creating double computer entries for each dispensed prescription as his method of accounting for insurance billing purposes. The Deputy Administrator also concurs with Judge Tenney's conclusion that the Government has met its burden with respect to public

interest factors (1), (2), (4), and (5) under 21 U.S.C. 823(f).

The Deputy Administrator, concurring with the Government's exceptions, does not agree with Judge Tenney's finding that Respondent's location in a low socio-economic area constitutes a mitigating factor for Respondent's numerous violations of the laws and regulations relating to controlled substances. The Deputy Administrator similarly rejects as a mitigating factor, Respondent's plea of good faith ignorance in that he was not actually informed of the reclassification of glutethimide from a Schedule III to a Schedule II controlled substance.

The Deputy Administrator disagrees with, and declines to follow, Judge Tenney's proposed suspension of Respondent's registration. Judge Tenney's reliance on *Buscema* is not applicable to the facts in the instant case. In *Buscema,* Judge Tenney found that Respondent's actions in failing to account for the disposition of Schedule II controlled substances and his subsequent guilty plea to a felony charge of falsifying records concerning controlled substances, occurred over a limited period of time and was motivated by his desire to protect his wife, an employee of his office and a subsequently rehabilitated drug addict suspected of diverting the missing drugs for her own use. In finding that the State of New York had exacted ''full and fair'' retribution and recommending that Dr. Buscema's registration not be revoked, Judge Tenney found, and the Deputy Administrator concurred, that Dr. Buscema had served his probationary sentence, had been discharged from probation two and one-half years early and had accepted responsibility for his conduct and failures regarding his wife's chemical dependency.

The Deputy Administrator finds that the leniency exercised in *Buscema* should not similarly be extended to Respondent in this proceeding. Respondent's numerous recordkeeping violations have resulted in the diversion of large quantities of controlled substances to a number of individuals, including drug addicts. Further, these violations were ongoing while previous violations by the State of Michigan were being appealed, and, therefore, the State of Michigan cannot be found to have exacted its ''retribution'' against Respondent for violations which it never had the opportunity to address. Additionally, as noted in Judge Tenney's thorough Findings of Fact, even aside from the numerous recordkeeping violations, Respondent also diverted large amounts of Tylenol with codeine and glutethimide for no legitimate medical purpose. Finally, contrary to Dr. Buscema's acceptance of responsibility for his actions, Mr. Goldstein, owner of Respondent pharmacy, continues to deny any misconduct, including those State violations upheld on appeal.

The Deputy Administrator finds merit in all of the Government's exceptions, and further finds that Respondent's ongoing violations of Federal and State controlled substance rules and regulations strongly indicate that his continued registration with DEA would not be consistent with 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, BF1175466, issued to Frank's Corner Pharmacy, be and it hereby is, revoked, and that any pending applications for registration be denied.

This order is effective May 8, 1995.

Dated: March 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–8402 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–46]

Ellis Turk, M.D.; Revocation of Registration

On April 15, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ellis Turk, M.D. (Respondent), of Baltimore, Maryland, proposing to revoke his DEA Certificate of Registration, AT2444711, and deny any pending applications for renewal of such registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 11, 1993, Respondent voluntarily discharged his counsel and continued *pro se.*

Following prehearing procedures, a hearing was held before Judge Bittner in Arlington, Virginia on November 22, 1993. On February 16, 1994, after the Government submitted its post-hearing brief, Respondent filed Response of Ellis Turk, M.D. to Government's Proposed Findings of Fact, Conclusions of Law and Argument (the ''Respondent's Response''). The Government filed a Motion to Strike Respondent's Response on February 18, 1994, on the grounds that the rules governing DEA administrative hearings (specifically 21 CFR 1316.64) do not permit such a responsive pleading. The Respondent filed a Response to Motion to Strike Respondent's Response on March 9, 1994.

On June 7, 1994, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision recommending that Respondent's DEA registration be revoked and any pending applications be denied. As part of the opinion, Judge Bittner allowed the Government's motion and struck Respondent's Response. Additionally, she allowed the Government's motion to strike specific exhibits filed by Respondent with his post-hearing brief. No exceptions to the Opinion were filed by either party even after an extension of time to ensure service of the opinion on the Respondent.

On July 8, 1994, the administrative law judge transmitted the record to the Deputy Administrator, including the Respondent's Response and the exhibits struck by Judge Bittner. On September 28, 1994, Respondent, through newly retained counsel, filed a Motion to Remand and Open the Record to Hear New Evidence with the Deputy Administrator of the DEA. The Government filed its opposition to Respondent's motion on October 13, 1994.

The Deputy Administrator has considered the record in its entirety, and, enters his final order in this matter pursuant to 21 CFR 1316.67, based on findings of fact and conclusions of law as set forth herein. The Deputy Administrator, concurring with the administrative law judge in her decision to strike Respondent's Response and exhibits filed post-hearing, did not consider those documents in rendering his final order.

The administrative law judge found that, in 1987, DEA received approximately ten reports from drug distributors that Respondent had purchased excessive quantities of the controlled substances phentermine and phendimetrazine. On two occasions in December 1988, DEA and Maryland State drug inspectors, pursuant to an administrative inspection warrant, conducted an accountability audit of controlled substances at Respondent's office, covering the period from

December 29, 1987 through December 12, 1988. the audit revealed shortages in the Respondent's accountability of controlled substances. These audit results were confirmed by a second audit conducted by DEA in 1989.

On November 22, 1989, a civil complaint was filed in the United States District Court for the District of Maryland against Respondent, based on the findings of the 1988 investigation. Following a bench trial on June 15 and 16, 1992, the court found that Respondent failed to comply with recordkeeping requirements of the Controlled Substances Act. On June 23, 1992, the court found Respondent liable for civil penalties in the amount of $24,000 for violations of 21 U.S.C. 827(a)(3) and 21 U.S.C. 842(a)(5). The court's decision was upheld by the U.S. Court of Appeals for the Fourth Circuit on February 18, 1993.

In her opinion of June 7, 1994, Judge Bittner noted that the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for such registration if he determines that the continued registration would be inconsistent with the public interest pursuant to the following factors set forth in 21 U.S.C. 823(f):

(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 public health and safety.

Judge Bittner stated, as a threshold matter, the Deputy Administrator may properly rely on any one or a combination of the five factors set forth in Section 823(f) and give each factor the weight he deems appropriate. *See Henry J. Schwartz, Jr., M.D.*, 54 FR 16422 (1989). She further stated that all five factors under 21 U.S.C. 823(f) were relevant in determining whether Respondent's continued registration would be inconsistent with the public interest.

Judge Bittner held that the evidence provided by the Government clearly established the shortages in Respondent's accountability of controlled substances, and that, although Respondent offered various documents into evidence, none of them offered any plausible or coherent explanation for the discrepancies found in the investigation. She further found that the Respondent, throughout the course of his previous litigation, as well as the instant case, continuously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing. Judge Bittner concluded that Respondent currently was not in a position to properly discharge the obligations of a DEA registrant, and, therefore, Respondent's continued registration would not be in the public interest. The administrative law judge recommended that Respondent's DEA Certificate of Registration be revoked and any pending applications should be denied.

The Deputy Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. The Respondent's Motion to Remand and Reopen the Record is denied. During the course of this administrative hearing, Respondent put forth extensive argument, raised countless objections, and submitted numerous motions in full support of his cause. The Deputy Administrator does not find any support for Respondent's contention, as outlined in his motion, that his medical condition had a deleterious effect on Respondent's ability to represent himself throughout the course of this proceeding. This matter has been fully and fairly litigated and there is no need to relitigate this case.

Based on the foregoing, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority invested 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 AT2444711, previously issued to Ellis Turk, M.D. be, and it hereby is, revoked, and that any pending applications for registration be denied. This orders is effective May 8, 1995.

Dated: March 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–8403 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Dropout Prevention

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA).

SUMMARY: All the information required to submit a proposal is contained in the announcement. The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the availability of funds for demonstration projects to replicate and formally evaluate a successful model by the Ford Foundation, known as the Quantum Opportunities Project (QOP). The U.S. Department of Education may also provide funds for this demonstration. The project is directed specifically toward at-risk youth entering the ninth grade. The objectives of the project are to enable participants to complete high school, and to improve their rate of entering and succeeding in post-secondary education.

Initial grants of $200,000 will be made to five local areas. Pending availability of funds, these grants will be renewed at the same level for three additional years to cover the four years of high school of participating students. To receive these funds, local sites will need to agree to participate in an evaluation in which eligible youth will be randomly assigned to receive or not to receive QOP services.

These grants will be limited to service delivery areas (SDAs) under the Job Training Partnership Act (JTPA). To apply for these grants, SDAs will need to have the local public school district as a co-applicant, and identify a community-based organization (CBO) to operate the demonstration. Matching funds in the amount of $200,000 a year will be required to operate a Quantum Opportunity Project. Additionally, local sites will need to commit to provide summer jobs for QOP participants for the three summers in which the participants are in the program. This demonstration is aimed at schools with high dropout rates. Target schools will need to have at least 40 percent fewer graduating seniors in June of 1994 than entering ninth graders in September of 1990 (For example, if a school had 300 entering ninth graders in September 1990, the graduating class in June of 1994 must have been 180 or fewer).

DATES: The closing date for receipt of applications will be May 15, 1995 at 2:00 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, Attention: Brenda M. Banks, Reference: SGA/DAA 95–005,

Room S–4203, 200 Constitution Avenue N.W., Washington D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Brenda Banks (202–219–7300) in the Division of Acquisition and Assistance. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This announcement consists of four parts and appendices. Part I describes the authority and purpose of this demonstration. Part II is the Statement of Work (responsibilities of grantees). Part III describes the application process and guidelines for applying for these grants. Part IV identifies and defines the selection criteria which will be used in reviewing and evaluating applications. Appendix No. 1 provides a more detailed description of the QOP program. *There is no separate application package.*

Part I. Background

A. Authority

Section 452 of the Job Training Partnership Act authorizes the Secretary of Labor to establish pilot and demonstration programs.

B. Purpose of this Demonstration

There is a large and growing gap in this country between the employment and earnings of these individuals who have dropped out of high school, those that have graduated from high school but have not gone on to college, and those that have graduated from college. In many inner-city high schools today, over 50 percent of entering ninth graders drop out of school prior to graduation. Further, the proportion of students from inner-city high schools who go on to post-secondary education remains very low.

The Ford Foundation has recently announced the results of its Quantum Opportunities Project (QOP) demonstration. In this demonstration, 100 entering ninth graders in inner-city high schools were joined together in groups of 25 at four sites and assigned to the same adult coordinator. The students stayed with the same group and adult counselor throughout their four years of high school, receiving basic skills remediation, participating in group community service activities and cultural enrichment and youth development activities, visiting college campuses, and ''job shadowing'' professionals. The students earned two sets of stipends—one in cash and the second reserved in an ''opportunity account'' to be used for post-secondary education.

Entering ninth graders were randomly assigned to the QOP program, and a control group was also followed. The Ford Foundation evaluation of the program showed that QOP had been able to cut dropout rates in half and double the college entrance rate of participants.

Ideally, the development of new approaches to serving youth occurs in several stages—(1) an idea or model is developed; (2) the idea is put into practice at one site, and then perhaps at a second site with some modifications; (3) the model program is then pilot-tested at several sites; (4) the model program then enters a demonstration stage in which it is formally evaluated using random assignment of program applicants at several sites; and (5) if the random-assignment evaluation results come out positive, the model program is replicated widely across the country. This grant is part of stage (4) of this process.

C. Demonstration Policy

1. Eligible Applicants. Eligible applicants under this solicitation are Service Delivery Areas (SDAs) under the Job Training Partnership Act.

2. Funding. DOL expects to make approximately five awards. It is anticipated that individual grant awards will be $200,000 for the first year of the project.

3. Matching Requirements. In order to receive a grant award, an applicant must include a 100% match. These matching funds can come from JTPA Title II-C, Education for the Disadvantaged School-Wide Programs (ESEA Title I), general school district funds, local foundations and private corporations, or other sources.

4. Period of Performance/Options. The period of performance for these Grants will be twelve months from the date of execution by the Government. Pending satisfactory performance and availability of funds, these awards will be extended for an additional three years (three one-year options). The idea is to cover the entire four years of high school of students served.

5. Eligible Participants. All entering ninth graders who rank in the bottom half of their class according to the previous year's grades will be eligible for the QOP program, and then will be randomly assigned to receive or not receive QOP services.

6. Allowable activities. Grantees will conduct activities consistent with the QOP program described below.

7. Cost limitations. Demonstration grants are not subject to the cost limitations in JTPA Title II. However, $50,000 to be used for the overall program coordinator at each site should be considered the administrative costs for this demonstration.

Part II. Statement of Work (Responsibilities of Grantees)

Applicants should take into account the responsibilities listed below. The local school system will be responsible for identifying the target high schools and students; the CBO will be responsible for hiring the adult coordinators; and the SDA will be responsible for administering the Grant and providing summer jobs for the youth.

A. *Identification of target high schools.* Target high schools should have a rate of at least 40 percent of entering ninth graders dropping out before graduation to qualify for this grant—that is, if the graduating class in June of 1994 was 180 then the entering 9th grade class in September 1990 must have been 300 or more. The target high schools can be small or large, but they should have a combined expected enrollment of at least 560 entering ninth graders this coming fall in order to divide the class in half by grades from the previous year, and then to provide for two groups of 140 from the bottom half for non-treatment and QOP participation. The school district will need to identify during the summer the bottom half of the entering ninth graders at these schools, as ranked by grades.

B. *Develop and implement the QOP model.* The local QOP project shall be comprised of the following features:

—Groups of 20 entering ninth graders will be assigned to two half-time adult counselors. Students will stay with the same group and the same counselors throughout their time in high school.

—The QOP counselors will have office space at the high schools.

—Each site will hire an overall coordinator overseeing each of the QOP counselors.

—QOP activities will include each year 250 hours educational enrichment; 250 hours of cultural and development activities, including visits to college campuses; and 250 hours of community service activities. The educational enrichment activities can occur either at the school or at a separate CBO site.

—QOP students will be able to receive up to $500 a year in stipends based on attendance at program activities. Counselors are responsible for tracking and recording stipend-related activities for those individuals in their charge. The stipends for QOP participants are to be put into a bank account to used only for post-secondary educational expenses once the individual completes (or leaves) the QOP program.

—QOP students will receive summer jobs during their three summers in high schools. Offerors should be able to identify the person within the SDA who will be in charge of linking school to summer work activities and ensuring that each participant is employed during the summer. The jobs can be provided through JTPA Title II–B if the students are eligible for JTPA and if Congress continues the Title II–B program; otherwise summer jobs will need to be found for the students. Preferably, jobs provided to QOP participants should be at the same worksite each summer, with increasing levels of responsibility each new year.

—The salaries of QOP counselors and the overall site coordinator will include incentives for keeping students in the QOP program.

—Group cohesion will be emphasized throughout the program. Students cannot be dropped from the program, even for non-attendance. An inactive student can return to the group at any time. Replacement students will not be added.

C. *Coordination of evaluation activities.* In conjunction with the Department's evaluation contractor, the eligible entering ninth graders will be randomly assigned during the first week of school in September to one of two groups, those who ''enter'' or ''do not enter'' the QOP program. For example, City A selects two high schools as its target schools for this demonstration. Each target high school has had a recent dropout rate of over 40 percent, and each is expecting an entering enrollment of 300 ninth graders—a combined total of 600 entering ninth graders. The school district will identify the bottom half of these entering ninth graders, or 300 youth. In turn, the school district will work with the Department's evaluation contractor to randomly select 140 of the eligible youth who report the first week of school to be part of the QOP program. There will be no eligibility requirement for the QOP program other than being ranked in the bottom half of the entering ninth grade class.

D. *Use of funds and matching commitments.* Grantees are required to provide a $200,000 local match for each year of the project. The $200,000 grant and $200,000 matching funds are expected to be sufficient to serve 140 youth at each site. These funds will allow for hiring fourteen half-time adult coordinators at $17,500 (salaries plus fringe benefits included); stipends of $500 a year to each youth; an overall coordinator at $50,000 (salary plus fringe benefits); with some funds left over for other project activities. Matching funds cannot be in-kind to simply use existing school counselors. JTPA Title II–C funds, Education for the Disadvantaged School-Wide Programs (ESEA, Title I) funds, local foundations, and local corporations are all appropriate sources for matching funds. Compensatory education funds outside of school-wide projects may not be an appropriate source of matching funds, because of possible conflict between random assignment and statutory requirements in these compensatory education funds.

Applicants will note that there are some differences between the QOP model that will be implemented in this demonstration and the original QOP pilot project described in the Appendix No. 1. The model that will be implemented under this demonstration will have 20 rather than 25 youth in each group; it will not be restricted to minority youth or youth in families receiving welfare; and it does not include cash stipends. Additional funds may be made available to grantees at a later time to provide cash.

E. *Project Description.* 1. Describe the need for the QOP project in the target high school or schools. What percentage of youth who entered the 9th grade in September of 1990 in these schools have dropped out prior to graduation? (You can simply show the number of entering 9th graders in September of 1990 and the number of students graduating in June of 1994). How many students are expected to enter the 9th grade at these schools this coming September? What is the poverty rate of the neighborhoods served by the schools? You may also discuss other factors that may reflect need, for example, teen pregnancy rates and crime rates in the neighborhoods served by the schools.

2. Describe your plan for implementing the QOP program this coming September. How will the 140 QOP slots be apportioned among the target high schools that have been identified? When during the summer will you be able to provide a list of entering ninth graders who rank in the bottom half of their class? Who in the school system will be responsible for providing this list, and what is their telephone number during the summer? What community-based organization (CBO) will carry out the QOP program? How was this CBO selected? What is the hiring plan of the CBO to make sure that the overall coordinator and 14 half-time counselors will be hired by September? Can you provide examples of likely candidates for these positions? What physical space will be provided to the counselors at the target high schools? Who in the school system will be responsible for overseeing the QOP program? How will the school system and the CBO coordinate services provided under QOP? Describe the SDA's plans for providing summer jobs for the youth.

3. Describe the matching funds that will be provided.

Part III. Application Process

A. Submission of Proposals

An original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts.

1. Cost Proposal. Part I shall contain the cost proposal, consisting of the following items: Standard Form SF 424, ''Application for Federal Assistance'' (Appendix No. 2) and the ''Budget Information'' sheet (Appendix No. 3). Also, the budget shall include on separate page(s) a detailed breakout of each line item on the budget sheet. The Budget should provide for $200,000 in grant funds and $200,000 in matching funds.

2. Technical Proposal. The technical proposal shall be limited to *ten pages* (single-sided, single spaced). It should include the ''assurance'' provided below signed by the SDA director and the superintendent of schools, and answers to the three sets of questions and requirements included under Part II, Section E.

The following ''assurance'' should be signed by the local SDA director and superintendent of schools and included in the technical proposal: ''The service delivery area (SDA) and school district of _____ are applying for a $200,000 a year grant under the Department of Labor's Quantum Opportunities Project (QOP) demonstration for entering ninth graders. We understand that pending availability of funds the demonstration will continue throughout the 4 years of high school of participating students. We also understand that $200,000 a year in matching funds are required for the project, and QOP students will be provided summer jobs for their three summers in high school. We also understand that participating in a random assignment evaluation of the program is a condition of award, and that eligible entering ninth graders will be randomly assigned to participate or not participate in QOP.''

_____

SDA Director

_____

School District Superintendent

B. Hand-Delivered Proposals

Proposals should be mailed at least five (5) days prior to the closing date for the receipt of applications. However, if proposals are hand-delivered, they shall be received at the designated place by 2 p.m., Eastern Time on the closing date for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time and closing date. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of non-responsiveness.

C. Late Proposals

Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it:

(1) was sent by the U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of the application (e.g., an offer submitted in response to a solicitation requiring receipt of applications by the 5th of May must have been mailed by the 1st of May); or

(2) was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term ''working days'' excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of mailing of a late proposal sent either by the U.S. Postal Service registered or certified mail is the U.S. postmark both on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. Postal Service on the date of mailing. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late proposal sent by ''Express Mail Next Day Service—Post Office to Addressee'' is the date entered by the post office receiving clerk on the ''Express Mail Next Day Service—Post Office to Addressee'' label and the postmark on both the envelope and wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the envelope or wrapper.

F. Withdrawal of Proposals

Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Proposals may be withdrawn in person or by an applicant or an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal before a grant award is executed.

Part IV. Rating Criteria for Award

Applicants are advised that the selection of grantees for awards is to be made after careful review by a panel. Applicants are advised that discussions may be necessary in order to clarify and inconsistencies in their application. The panel results are advisory in nature to the Grant Officer. The Grant Officer will make final awards based on what is in the best interests of the Government as determined by the Grant Officer. The rating criteria for award are the following:

1. *Need in Target High Schools.* This corresponds to questions and requirements raised in Part II, Section E.1. The proposal should provide information on the high schools, including the overall enrollment at the schools and the proportion of entering ninth graders who graduate from the school. The neighborhoods served by the schools should be described. (30 points).

2. *Development and Implementation Plan.* This corresponds to questions and requirements raised in Section E.2 and 3. This criteria covers plans for recruiting and hiring of the QOP counselors and overall coordinator; the availability of office space in the target high schools for QOP coordinators; the summer jobs that will be made available to QOP students through JTPA Title II–B; how jobs will be provided to QOP students not income-eligible for JTPA; the experience of the CBO in operating programs for at-risk youth; and the availability of matching funds. (70 points).

Signed at Washington, D.C., this 31st day of March, 1995.

Janice E. Perry,

ETA Grant Officer.

Appendix 1 Description of Original QOP Program

(**Note:** This Appendix is provided as background information on the original QOP program which the Ford Foundation funded. As discussed above, the QOP model that sites will be implementing under this grant announcement differs in slight ways from the original QOP program. Where differences occur, applicants should follow the model described in the main text of the grant announcement rather than in this Appendix).

Quantum Opportunities Program: An Overview

Background

The Quantum Opportunities Program (QOP) was initiated as an experiment to test whether impoverished young people could make a ''quantum leap'' up the ladder of opportunity if an intensive array of coordinated services, coupled with a sustained relationship with a peer group and a caring adult, were offered to them over their four years of high school.

The program also tested a system of incentive payments for participants, staff and delivery organizations to encourage participation and retention in the program and to provide some money for college, technical training or other education upon completion.

The program designer recognized that a variety of education, training, employment, development and service opportunities were already available to poor teenage youth through programs of government agencies and nonprofit organizations. These, however, were neither coordinated nor sequenced in a continuum that recognized the developmental needs of maturing youth. Lacking coordination and continuity, their cumulative impact was diluted.

The Quantum Opportunities Program adopted an investment mentality. It tested whether comprehensive services could be sequenced effectively, whether a single coordinator could broker services efficiently, whether eligible youth would participate if such opportunities were offered, and whether this approach and these investments would have a positive effect on the youth's life chances.

Purpose

The program's aim was to assist minority youth from solo-parent, welfare families in poverty neighborhoods *graduate* from high school and *attend college.* The Quantum Opportunities Programs sought to rewrite the future for these-at-risk teens.

Sites

The multi-faceted QOP model was successfully implemented in four of the five demonstration sites: Oklahoma City, Philadelphia, Saginaw and San Antonio. The delivery organizations were OIC affiliates—community organizations offering a variety of education, training and self-sufficiency programs. Each also operated a ''Learning

Opportunity Center'' equipped with computers, books and audiovisual equipment and materials for self-paced and competency-based learning in academic, employability and life skills.

There was variation among the four sites as to how each operated the program. Two negotiated with their local high schools to schedule time in the school day. In one case, a *daily* class period for participating students was set up in each of the four school years. This school time was used for group meetings, discussions and development activities; other program activities took place outside of the school day in the community organization. In the second site, the local school provided a space for the program and released students for daily meetings. Two sites conducted the program entirely outside of school hours and facilities.

Youth Eligibility

Participating students, the ''Opportunity Associates'' were each:

- entering the 9th grade;
- attending a public high school in a poverty neighborhood;
- a member of a racial minority; and
- from a solo-parent family receiving welfare payments.

Recruitment

Each site enrolled 25 participants at the start of the 1989–1990 school year:

1. The participating public high school produced a list of all entering freshman meeting the eligibility criteria.
2. From the list, 25 students were selected at random for invitation to participate in the program. Another 25 students were selected, also at random, as a control group.
3. Selected students were contacted through mailings, school counselors and teachers, orientation meetings with parents and students, home visits and peers.
4. All contacted students were automatically enrolled. There was no screening out or special selection.

Program Design

A youth developmental model was tested in the Quantum Opportunities Program. The program was organized in four cycles spanning the four high school years, including summers.

In *each* yearly cycle, the Opportunity Associates attended high school *and* participated in three activity components of up to 250 hours each for a maximum of 750 hours per yearly cycle.

These activity components were organized by an Opportunity Coordinator at each site. The Coordinator both brokered and directly delivered services in the three activity components, which were:

Learning Opportunities—250 hours per year of self-paced and competency based basic skills and enrichment study outside of regular school hours. Reading, writing, math, science, and social studies were covered. Opportunity Associates completed these extra hours of learning in the existing OIC Learning Opportunity Center in their community.

Development Opportunities—250 hours per year of cultural enrichment and personal development. Students attended plays and concerts, explored the visual arts, visited museums and new locations, read and discussed current affairs and the Great Books, learned about their own rich history and culture, dined in restaurants, and ''job shadowed'' with professionals. Each Opportunity Associate received a personal subscription to Time Magazine. They learned how to set goals, manage their time, and choose behavior appropriate for varying situations. They developed life skills needed in the home, at work and in the marketplace. They learned about themselves and how to get along with others.

Service Opportunities—250 hours per year of community service connected Opportunity Associates to their communities and provided opportunities to develop many of the skills needed for work—reliability, following through on tasks, and working cooperatively. Service projects ranged from tutoring elementary students, to neighborhood cleanup, to volunteer work in hospitals, nursing homes, libraries and human service agencies.

Key Features

The critical elements of Quantum Opportunities Program design were:

- Group cohesion—By design, each group of 25 Opportunity Associates remained constant through the four high school years. Students could not be dropped from the group, even for non-attendance. An inactive student could return to the group at any time over the four years; the promise of opportunity was never withdrawn. New students were not admitted to the group.
- Continuity with a caring adult—at each site, the same Opportunity Coordinator was to stay with the group for the four years. (There was turnover in some test sites.)
- ''Front line'' accountability—Each Opportunity Coordinator was responsible for recruiting students, encouraging active participation, brokering all service activities, counseling students, communicating with families, assisting with college financial aid applications, and tracking activities.

Incentives

Financial incentives were structured to encourage participation, completion and long range planning. Opportunity Associates received:

- an hourly stipend of $1.33 for each hour of participation in the education, development and service activities;
- a completion bonus of $100 for *each activity component* completed *during each of the four yearly cycles*, for a possible total of $300 in bonuses, and;
- an Opportunity Account, created by *matching*, on a dollar basis, all hourly stipend and bonuses earned by the Associate over the four years of the program. At the end of the four years, the funds accrued in Opportunity Accounts, including interest earned, were available to Associates for approved college, job and technical training, or continuing education.

The Coordinator's incentive payments, as well as those to the OIC affiliate, were also tied directly to participation hours and completion rates. QOP Coordinators received the same amount, and the delivery organization received double the amount, of the stipends and bonuses of their Opportunity Associates.

Research

Brandeis University is evaluating the program using a random assignment, control group methodology. Progress during the school years and post-program outcomes are being compared for Opportunity Associates and a matched group of people who did not participate.

Early results are quite positive. The year after expected high school graduation, Opportunity Associates were more likely to have graduated from high school, to have enrolled in four-year colleges, to have enrolled in any post-secondary education, and to still plan college completion. They were less likely to have dropped out, to have become a solo parent or to have been arrested.

Cost

The average cost per participant—covering all costs—was $11,250 for the four years (half the annual costs of prison). Two-fifths of this cost was in direct payments to participants in the form of stipends, bonuses and the Opportunity Account.

BILLING CODE 4130–30–M

Appendix No. 2

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 17.249

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix No. 3

BUDGET INFORMATION - Non Construction Programs

Catalog of Federal Domestic Assistance	Estimated Unobligated Funds		New or Revised Budget	
CFDA NUMBER	FEDERAL	NON-FEDERAL	FEDERAL	NON-FEDERAL
1._____	$_____	$_____	$_____	$_____
2._____	$_____	$_____	$_____	$_____

COST CATEGORY	FEDERAL FUNDING			NON-FEDERAL CONTRIBUTION		
DIRECT COST	CURRENT FEDERAL BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED FEDERAL BUDGET	CURRENT AWARDEE BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED AWARDEE BUDGET
(A) PERSONNEL						
(B) FRINGE BENEFITS						
(C) TRAVEL & PER DIEM						
(D) EQUIPMENT						
(E) SUPPLIES						
(F) CONTRACTUAL						
(G) OTHER						
TOTAL DIRECT COST						
INDIRECT COST						
TOTAL ESTIMATED COST						

AUTHORIZED FOR LOCAL REPRODUCTION SF424-A

[FR Doc. 95-8477 Filed 4-5-95; 8:45 am]
BILLING CODE 4130-30-C

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95–26; Exemption Application No. D–9741, et al.]

Grant of Individual Exemptions; Dillon, Read & Co. Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Dillon, Read & Co. Inc. (Dillon) Located in New York, New York

[Prohibited Transaction Exemption 95–26; Application No. D–9741]

Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan. [1]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or assets contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity. [2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust. [3] Notwithstanding the foregoing,

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a

section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. ''Certificate'' means:

(1) a certificate

(a) that represents a beneficial ownership interest in the assets of a trust; and

(b) that entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) a certificate denominated as a debt instrument—

(a) that represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) that is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) for which Dillon or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent. For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1) either

(a) secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) ''guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR section 2510.3–101(i)(2);

(f) fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);[4]

prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

[4] The Department wishes to take the opportunity to clarify its view that the definition of Trust contained in III.B.(1)(a) through (e) includes a two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and

Continued

(2) property which had secured any of the obligations described in subsection B.(1);

(3) undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1). Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means:

(1) Dillon;

(2) any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Dillon; or

(3) any member of an underwriting syndicate or selling group of which Dillon or a person described in (2) is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. ''Master Servicer'' means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. ''Subservicer'' means an entity which, under the supervision of and on behalf of the master servicer, services assets contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means any entity which services assets contained in the trust, including the master servicer and any subservicer.

H. ''Trustee'' means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward delivery commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable compensation'' has the same meaning as that term is defined in 29 CFR section 2550.408c–2.

S. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. ''Qualified Equipment Note Secured By A Lease'' means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the

---

interests evidenced by other certificates issued by the first trust.

equipment note were secured only by the equipment and not the lease.

U. ''Qualified Motor Vehicle Lease'' means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 30, 1995 at 60 FR 5720.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

PACCAR Inc Savings Investment Plan (the Plan) Located in Bellevue, Washington

[Prohibited Transaction Exemption 95–27; Exemption Application No. D–09855]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the guarantee by PACCAR Inc (the Employer), the sponsor of the Plan, of the Plan's investment in a guaranteed investment contract (the GIC) issued by Confederation Life Insurance Company (Confederation Life), including the potential extensions of credit to the Plan by the Employer (the Advances) pursuant to the Guarantee; and (2) the potential repayment of the Advances (the Repayments); provided that the following conditions are satisfied:

(A) All terms and conditions of the transactions are no less favorable to the Plan than those which the Plan could obtain in an arm's length transaction with an unrelated party;

(B) The Repayments are made only from GIC Proceeds, defined as the amounts actually received by the Plan

(1) From Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the terms of the GIC, or (2) from the sale or transfer of the GIC to unrelated third parties;

(C) The Repayments will be made only after the Plan has recovered, through the Advances plus GIC Proceeds, the amount guaranteed by the Employer with respect to the GIC; and

(D) To the extent the Advances exceed GIC Proceeds, Repayment of the difference will be waived.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on February 10, 1995 at 60 FR 8088.

WRITTEN COMMENTS: The Department received one written comment and no requests for a hearing. The comment was submitted by Plan participants who expressed support for the proposed exemption. After careful consideration of the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Manke Lumber Company, Inc. Profit Sharing Plan (the Plan) Located in Tacoma, Washington

[Prohibited Transaction Exemption 95–28; Application No. D–09897]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Plan of certain real property (the Property) to Manke Family Resources, Limited Partnership.

This exemption is conditioned upon the following requirements: (1) All terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (2) the Sale is a one-time cash transaction; (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and (4) the Plan receives a sales price equal to the greater of: (a) the fair market value of the Property on the date of the Sale; or (b) the Plan's aggregate costs of acquiring and holding the Property.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 10, 1995 at 60 FR 8090.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Virginia Fibre Corporation Employees Retirement Savings Plan (the Plan) Located in Amherst, Virginia

[Prohibited Transaction Exemption 95–29; Exemption Application No. D–09901]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective February 1, 1995, to (1) the purchase from the Plan (the Purchase) by the Virginia Fibre Corporation (the Employer), the sponsor of the Plan, of a guaranteed investment contract (the GIC) issued by the Confederation Life Insurance Company (Confederation Life); or, in the alternative, (2) the interest-free loan to the Plan by the Employer (the Loan) with respect to the GIC, including repayment of the Loan; provided that the following conditions are satisfied:

(A) All terms and conditions of the transactions are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) In the event of the Purchase, the Plan receives a cash purchase price which is no less than the greater of (1) the fair market value of the GIC as of the sale date, or (2) the GIC's Maturity Payment, as described in the Notice of Proposed Exemption;

(C) In the event of the Loan: (1) The Loan is in the amount of the GIC's Maturity Payment, as described in the Notice of Proposed Exemption; (2) the Loan is repaid only from GIC Proceeds, defined as the amounts paid by or on behalf of Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the GIC; (3) the Plan incurs no expenses or interest with respect to the Loan; and (4) repayment of the Loan is waived to the extent the Loan exceeds the GIC Proceeds.

EFFECTIVE DATE: This exemption is effective as of February 1, 1995.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on February 10, 1995 at 60 FR 8091.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Employee Benefit Capital Preservation Fund of Central Fidelity National Bank (the Fund) Located in Richmond, Virginia

[Prohibited Transaction Exemption 95–30; Exemption Application No. D–09905]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the past sale by the Fund of three Guaranteed Income Contracts (the GICs) of Confederation Life Insurance Company to Central Fidelity Bank, Inc., a party in interest with respect to the Fund, provided the following conditions are satisfied: (1) the sale was a one-time transaction for cash; (2) the Fund received no less than the fair market value of the GICs at the time of the transaction; (3) the purchase price was not less than the GICs' accumulated book values (defined as total deposits plus interest accrued but unpaid at the GICs' stated rates of interest through the date of sale, less withdrawals) as of the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 30, 1995 at 60 FR 5730.

EFFECTIVE DATE: This exemption is effective on December 29, 1994.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 31st day of March, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 95–8394 Filed 4–5–95; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–374]

Commonwealth Edison Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–18, issued to Commonwealth Edison Company (the licensee), for operation of the LaSalle County Station, Unit 2, located in LaSalle County, Illinois.

The proposed amendment would revise the safety/relief valve (SRV) safety function lift setting allowable tolerance band from (−3% to +1%) to (−3% to +3%) and include as-left SRV lift setting tolerances of (−1% to +1%).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Section 50.91(a)(6) of Title 10 of the Code of Federal Regulations specifies that the Commission may, where exigent circumstances exist, allow less than the 30 days for public comment. Exigent circumstances have been found to exist for this proposed amendment. On March 18, 1995, with LaSalle Unit 2 in a shutdown condition for the current refueling outage, the licensee learned that two of the six SRVs tested had lift settings that were not within the current tolerance band allowed by the technical specifications. This resulted in three additional SRVs being tested and two additional SRVs found to lift at pressures slightly outside the existing tolerance band. The remaining nine SRVs are required to be tested based on the current technical specifications. This testing would involve a significant financial cost, the collection of approximately 11 person-rem of radiation exposure by plant workers, and a delay in the restart of Unit 2. The history of the safety relief value testing at LaSalle is such that the licensee did not anticipate the immediate need for an increased tolerance band. However, as part of a longer range plan to reduce the number of SRVs and increase the allowable lift setting tolerances, the licensee had performed much of the analyses required to justify the proposed amendment request. On March 27, 1995, the licensee decided to expedite the SRV lift setting technical specification change for LaSalle Unit 2. The licensee completed the review and submitted the request on March 31, 1995. To avoid the radiation exposures and restart delays associated with testing the remaining nine SRVs, the proposed amendment would need to be issued before April 22, 1995, and therefore the request does not afford the normal 30-day comment period.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysts of the issue of no significant hazards consideration. The staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an accident previously evaluated will not increase as a result of this change, because the only change are the tolerances for the SRV opening setpoints and the speed of

the reactor core isolation cooling system (RCIC) turbine and pump. Changing the maximum allowable opening setpoint for the SRVs does not cause any accident previously evaluated to occur, or degrade valve or system performance in any way so as to cause an accident to occur with an increased frequency. In addition, the increased speed of the RCIC turbine and pump are within the design limits of the system. RCIC operability and failure probabilities are not impacted by this change.

The consequences of an ASME overpressurization event are not significantly increased and do not exceed the previously accepted licensing criteria for this event. GE has calculated the revised peak vessel pressure for LaSalle Station to be 1341 psig, which is well below the 1375 psig criterion of the ASME Code for upset conditions, referenced in Section 5.2.2, Overpressurization Protection, of the Updated Final Safety Analysis Report (UFSAR), and NUREG–0519 (Safety Evaluation Report related to the operation of LaSalle County Station, Units 1 and 2, March 1981), and Section 15.2–4, Closure of Main Steam Isolation Valves (BWR) of NUREG–0800 (Standard Review Plan).

GE has also performed an analysis of the limiting anticipated transient without scram (ATWS) event, which is the main steam isolation valve (MSIV) closure event. This analysis calculated the peak vessel pressure to be 1457 psig, which is well below the 1500 psig criterion of the ASME Code for emergency conditions.

Per NUREG–0519, listed above, Section 5.4.1 and Technical Specification 4.7.3.b, the RCIC pump is required to develop flow greater than or equal to 600 gpm in the test flow path with a system head corresponding to reactor vessel operating pressure when steam is supplied to the turbine at 1000 +20, −80 psig. Increasing the turbine and pump speed ensures these criteria will still be met and the consequences of an accident will not increase.

Therefore, there is not a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The only physical changes are to increase the allowable tolerances for SRV opening setpoints and to increase the RCIC pump and turbine speeds. These changes do not result in any changed component interactions. The SRVs and RCIC will still provide the functions for which they were designed. Since all of the systems evaluated will continue to function as intended, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

While the calculated peak vessel pressures for the ASME overpressurization event and the MSIV closure ATWS event are larger than that previously calculated without the proposed setpoint tolerance increases, the new peak pressures remain far below the respective licensing acceptance limits associated with these events. These licensing acceptance limits have been previously evaluated as providing a sufficient margin of safety. For other accidents and transients, the increased setpoint tolerances have a negligible, if any, effect on the results, so the margin of safety is preserved.

Based on the this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 8, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first

prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra, Director, Project Directorate III–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Espire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 31, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Rockville, Maryland, this 4th day of April 1995.

For the Nuclear Regulatory Commission.

William D. Reckley,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–8575 Filed 4–5–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Entergy Operations, Inc. (Grand Gulf Nuclear Station Unit 1); Exemption

I

Entergy Operations, Inc., (the licensee) is the holder of Facility Operating License No. NPF–29, which authorizes operation of the Grand Gulf Nuclear Station, Unit 1. The operating license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facility consists of a boiling water reactor at the licensee's site in Claiborne County, Mississippi.

II

Title 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,'' paragraph (a), in part, states that ''The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), specifies that ''The licensee shall control all points of personnel and vehicle access into a protected area.'' 10 CFR 73.55(d)(5) requires that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' 10 CFR 73.55(d)(5) also states that an individual not employed by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area * * *''

The licensee proposed to implement an alternative unescorted access control system which would eliminate the need to issue and retrieve badges at each entrance/exit location and would allow all individuals with unescorted access to keep their badge with them when departing the site.

An exemption from 10 CFR 73.55(d)(5) is required to allow contractors who have unescorted access to take their badges offsite instead of returning them when exiting the site. By letter dated October 24, 1994, the licensee requested an exemption from certain requirements of 10 CFR 73.55(d)(5) for this purpose.

III

Pursuant to 10 CFR 73.5, ''Specific exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Pursuant to 10 CFR 73.55, the Commission may authorize a licensee to provide alternative measures for protection against radiological sabotage provided the licensee demonstrates that the alternative measures have ''the same high assurance objective'' and meet ''the general performance requirements'' of the regulation, and ''the overall level of system performance provides protection against radiological sabotage equivalent'' to that which would be provided by the regulation.

Currently, employee and contractor identification badges, coupled with their associated access control cards, are issued and retrieved on the occasion of each entry to and exit from the protected areas of the Grand Gulf site. Station security personnel are required to maintain control of the badges while the individuals are offsite. This practice has been in effect at the Grand Gulf Nuclear Station, Unit 1 since the operating license was issued. Security personnel retain each identification badge, as well as the associated access control card, when not in use by the authorized individual, within appropriately designed storage receptacles inside a bullet-resistant enclosure. An individual who meets the access authorization requirements is issued an individual picture identification card and an individual access control card which allows entry into preauthorized areas of the station. While entering the plant in the present configuration, an authorized individual is ''screened'' by the required detection equipment and by the issuing security officer. Having received the badge, the individual proceeds to the access portal, inserts the access control card into the card reader, enters a personal identification number (PIN), and passes through the turnstile which unlocks if the preset criteria are met. Once inside the station, the individual's PIN is not required in order to further utilize the access authorization card.

This present procedure is labor intensive since security personnel are required to verify badge issuance, ensure badge retrieval, and maintain the badges in orderly storage until the next entry into the protected area. The regulations permit employees to remove their badges from the site, but an exemption from 10 CFR 73.55(d)(5) is required to permit contractors to take their badges offsite instead of returning them when exiting the site.

Under the proposed system, all individuals authorized to gain unescorted access will have the physical characteristics of their hand (hand geometry) recorded with their badge number. Since the hand geometry is unique to each individual and its application in the entry screening function would preclude unauthorized use of a badge, the requested exemption would allow employees and contractors to keep their badges at the time of exiting the protected area. The process of verifying badge issuance, ensuring badge retrieval, and maintaining badges could be eliminated while the balance of the access procedure would remain intact. Firearm, explosive, and metal detection equipment and provisions for conducting searches will remain as well. The security officer responsible for the last access control function (controlling admission to the protected area) will also remain isolated within a bullet-resistant structure in order to assure his or her ability to respond or to summon assistance.

Use of a hand geometry biometrics system exceeds the present verification methodology's capability to discern an individual's identity. Unlike the photograph identification badge, hand geometry is nontransferable. During the initial access authorization or registration process, hand measurements are recorded and the template is stored for subsequent use in the identity verification process required for entry into the protected area. Authorized individuals insert their access authorization card into the card reader and the biometrics system records an image of the hand geometry. The unique features of the newly recorded image are then compared to the template previously stored in the database. Access is ultimately granted based on the degree to which the characteristics of the image match those of the ''signature'' template.

Since both the badge and hand geometry would be necessary for access into the protected area, the proposed system would provide for a positive verification process. Potential loss of a badge by an individual, as a result of taking the badge offsite, would not enable an unauthorized entry into protected areas.

The access process will continue to be under the observation of security personnel. The system of identification badges coupled with their associated access control cards will continue to be used for all individuals who are authorized access to protected areas without escorts. Badges will continue to be displayed by all individuals while inside the protected area. Addition of a hand geometry biometrics system will provide a significant contribution to effective implementation of the security plan at each site.

IV

For the foregoing reasons, pursuant to 10 CFR 73.55, the NRC staff has determined that the proposed alternative measures for protection against radiological sabotage meet ''the same high assurance objective,'' and ''the general performance requirements'' of the regulation and that ''the overall level of system performance provides protection against radiological sabotage equivalent'' to that which would be provided by the regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Entergy Operations, Inc. an exemption from those requirements of 10 CFR 73.55(d)(5) relating to the returning of picture badges upon exit from the protected area such that individuals not employed by the licensee, i.e., contractors, who are authorized unescorted access into the protected area, can take their badges offsite.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 16683). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of March 1995.

For the Nuclear Regulatory Commission.

Elinor Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–8452 Filed 4–5–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–286]

Power Authority of the State of New York, (Indian Point Nuclear Generating Unit No. 3); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR–64, which authorizes operation of the Indian Point Nuclear Generating Unit

No. 3 (IP3). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Westchester County, New York.

II

By letter dated March 15, 1995, the licensee requested to modify an existing exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.J, which had been issued by the NRC on January 17, 1987. Section III.J specifies emergency lighting requirements for operation of safe shutdown equipment and in access and egress routes thereto. The January 17, 1987, exemption allowed use of permanently installed security lighting, in place of emergency lighting as specified in Section III.J, for access and egress to the Appendix R diesel generator which is located in the outside yard area.

During a programmatic review of the Appendix R, compliance strategy at IP3, the licensee identified that certain operator actions, which had not be included in the previous Appendix R compliance strategy, were needed. These additional operator actions were in the outside yard area at the condensate storage tank (CST), refueling water storage tank (RWST), and backup service water pump platform. Thus, in accordance with Appendix R, Section III.J, emergency lighting would be required for these additional areas. As such, the licensee's March 15, 1995, letter requested modification of the January 7, 1987, exemption to extend the use of security lighting in the outside yard area to include the CST, RWST, and backup service water platform.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security and (2) when special circumstances are present as set forth in 10 CFR 50.12(a)(2).

Section III.J of 10 CFR Part 50, Appendix R, requires that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. By letter dated June 14, 1985, the licensee applied for an exemption to the requirements of Section III.J, to allow use of permanently installed security lighting for providing an illuminated access and egress route to the Appendix R diesel generator which is located in the outside yard.

As justification, the licensee indicated that the yard area lighting for access and egress to the Appendix R diesel generator was already part of the security lighting system. As such, illumination is provided in accordance with 10 CFR 73.55(c)(5). The security lighting system is powered by a dedicated propane powered generator which operates in the event of a loss of power to the security system and this generator is physically separated from the plant; therefore, an Appendix R fire scenario will not affect operation of the security backup generator supply. In addition, the security backup generator has a sufficient capacity and fuel supply to power the outside yard lighting for the requisite 8-hour time period. The licensee concluded that the security lighting system was highly reliable and, as such, installation of the battery-powered lights, as required by Section III.J, would not enhance the safe shutdown capability at IP3.

The NRC staff agreed with the technical justification presented in the licensee's June 14, 1985, letter, and issued an Exemption from the requirement of Section III.J. for access and egress to the Appendix R diesel generator. In the licensee's March 15, 1995, letter, the same technical justification is presented for use of permanently installed security lighting, in lieu of battery-powered lights, as required by Section III.J, for three additional areas in the outside yard. These additional areas were a result of a reassessment of the IP3 Appendix R compliance strategy. The areas and the operator actions needed in each area are as follows:

(1) Condensate Storage Tank: The operators would verify tank level at the local indicator and during sub-freezing weather might need to place portable heaters in the area to maintain level indicator operable.

(2) Refueling Water Storage Tank: The operators would verify tank level at the local indicator and during sub-freezing weather might need to place portable heaters in the area to maintain level indicator operable.

(3) Backup Service Water Pumps: The operators would manually backlfush the strainers.

The licensee has confirmed that the technical justification, which was also the basis for the January 17, 1987, exemption is still valid. The licensee has also confirmed that the security lighting system still achieves the underlying purpose of the rule in that it provides adequate illumination to perform all Appendix R required activities in the outside yard for a period of at least 8 hours and is not impacted by fires in other areas of the plant for which Appendix R fires need to be considered.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that (1) the Modified Exemption as described in Section III is authorized by law, will not endanger life or property, and is otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii), in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the Commission hereby grants the following Modification to our Exemption of January 17, 1987:

(1) The Exemption from the requirement of 10 CFR Part 50, Appendix J, Section III.J, issued to the Power Authority of the State of New York on January 17, 1987, remains in effect. The Power Authority of the State of New York is also exempt from the requirement of 10 CFR Part 50, Appendix J, Section III.J, to the extent that security lighting in the outside yard area can be used in lieu of the emergency lighting as specified in Section III.J, at the following additional locations in the outside yard area:

—The Condensate Storage Tank Area

—The Refueling Water Storage Tank Area

—The Backup Service Water Pump Strainer Area

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Modified Exemption will have no significant impact on the quality of the human environment (60 FR 15944).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of March 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–8453 Filed 4–5–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Country Allocation of the Tariff-Rate Quota for Certain Imported Sugars, Syrups, and Molasses

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the country-by-country allocations of the tariff-rate quota for certain imported sugars, syrups, and molasses established for the period January 1, 1995, through September 30, 1995. The new allocations replace the allocations previously made for the period of August 1, 1994, through September 30, 1995.

EFFECTIVE DATE: January 1, 1995.

ADDRESSES: Inquiries may be mailed or delivered to Tom Hushek, Senior Economist, Office of Agricultural Affairs (Room 421), or to Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, Office of the General Counsel (Room 223); Office of the United States Trade Representative, 600 Seventeenth Street, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Tom Hushek, Office of Agricultural Affairs, 202–395–6127, or Daniel Brinza, Office of the General Counsel, 202–395–7305.

SUPPLEMENTARY INFORMATION:

Presidential Proclamation No. 6763 of December 23, 1994 established a tariff-rate quota for certain sugars, syrups, and molasses effective January 1, 1995, to implement the Uruguay Round Agreements approved by the Congress in the Uruguay Round Agreements Act (URAA) (P.L. 103–465). This tariff-rate quota replaced the tariff-rate quota that had been in effect previously. Presidential Proclamation No. 6763 also provided an additional amount under the tariff-rate quota for the period January 1 through September 30, 1995, of 8,000 metric tons, raw value, of refined sugars originating in Canada.

Presidential Proclamation No. 6763 also delegated to the United States Trade Representative (USTR) the President's authority under section 404(d)(3) of the URAA (19 U.S.C. 3601) to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas and to modify any allocation as the President determines appropriate.

Since the tariff-rate quota established by Presidential Proclamation No. 6763 replaced the previous tariff-rate quota, USTR is providing notice of the allocation of the new tariff-rate quota for the quota period January 1, 1995, through September 30, 1995.

Notice

The in-quota quantity of the tariff-rate quota for sugars, syrups and molasses entered under subheading 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44 for the period of January 1 through September 30, 1995, is allocated to each of the following countries and customs areas in an amount equal to the remaining quantity available, if any, from the allocation for that country or area for the quota period that began October 1, 1992, plus the remaining quantity available, if any, from its allocation for the quota period which began on August 1, 1994:

Argentina, Australia, Barbados, Belize, Bolivia, Brazil, Columbia, Congo, Costa Rica, Cote d'Ivoire, Dominican Republic, Ecuador, El Salvador, Fiji, Gabon, Guatemala, Guyana, Haiti, Honduras, India, Jamaica, Madagascar, Malawi, Mauritius, Mexico, Mozambique, Nicaragua, Panama, Papua New Guinea, Paraguay, Peru, Philippines, St. Kitts and Nevis, South Africa, Swaziland, Taiwan, Thailand, Trinidad and Tobago, Uruguay, and Zimbabwe.

The allocations for the quota period that began October 1, 1992, were announced by USTR on August 27, 1992, and adjusted by USTR as announced on July 1, 1993. The allocations for the quota period which began on August 1, 1994, were announced by USTR on August 11, 1994.

Signed at Washington, DC, on March 24, 1995.

Michael Kantor,

United States Trade Representative.

[FR Doc. 95–8476 Filed 4–5–95; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35556; File No. SR–CHX–94–22]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to Proposed Rule Change Relating to Exclusive Issues

March 31, 1995.

I. Introduction

On November 10, 1994, the Chicago Stock Exchange, Incorporated (''CHX'' 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 impose additional requirements and prohibitions on specialists, and others associated with specialists units, registered in exclusive issues. On January 4, and 9, 1995, the Exchange submitted, respectively, Amendments Nos. 1 and 2 to the proposed rule change.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 35233 (Jan. 18, 1995), 60 FR 4651 (Jan. 24, 1995). No comments were received on the proposal. On March 29, 1995, the Exchange submitted to the Commission Amendment No. 3 to the proposed rule change.[4] This order approves the proposed rule change, including Amendment No. 3, on an accelerated basis.

II. Description of the Proposal

Currently, the Exchange Rules impose only a general prohibition on specialists, who are prohibited from effecting purchases or sales of any security in which the specialist is registered, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market.[5] The Exchange proposes a new rule, Article XXX, Rule 23, to impose additional requirements and

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* letters from David Rusoff, Foley & Lardner, to Amy Bilbija, SEC, dated December 29, 1994; and to Glen Barrentine, SEC, dated January 5, 1995. Amendment Nos. 1 and 2 made non-substantive changes to the proposal.

[4] *See* letter from David Rusoff, Foley & Lardner, to Glen Barrentine, SEC, dated March 28, 1995. *See* infra note 6 for a description of Amendment No. 3.

[5] *See Chicago Stock Exchange Guide*, Article XXX, Rule 9, (CCH) ¶ 1929.

prohibitions on specialists, and certain others, where specialists are registered in exclusive issues.[6] Specifically, the proposed rule prohibits specialists, co-specialists, or other associated persons, officer, directors, partners, or employees of specialist units registered in an exclusive issue from engaging in any business transaction with the issuer of the exclusive issue.[7]

The proposed rule also prohibits certain specific dealings by specialists in exclusive issues without the prior approval of the floor officials. For example, a purchase at a price above the last sale in the same session or a proposed transaction involving a price movement of ½ point or more are not to be effected except with the prior approval of two floor officials. Moreover, the proposed rules makes the ''equalizing'' exemption in paragraph (e)(5) of SEC Rule 10a–1 unavailable for specialists and market makers when selling short an exclusive issue.[8]

Finally, the Exchange will provide specialists who are registered in issues that are not traded on the New York or American Stock Exchanges or Nasdaq/NMS with a statistical report on a monthly basis containing data for trade and share volume of each issue. The specialists, therefore, will be able to determine whether additional requirements and prohibitions of Rule 23 have been triggered.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[9] 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 interest.

The Commission believes that the rule change will benefit investors by eliminating a potential conflict of interest between specialists registered in exclusive issues and issuers of such securities. Because business transactions between specialists and issuers may exert an improper influence over specialists, the proposed rule explicitly prohibits these types of transactions as to specialists registered in exclusive issues. The Commission believes that the proposed rule would be in the interest of the investing public because it sets a standard higher than the Exchange Rules currently provide for specialists, and others associated with specialist units, registered in exclusive issues.[10]

At the present time, the Commission believes that the limitation of the proposed rule's prohibition to exclusive issues is appropriate. Exclusive issues, as defined by the proposed rule, would exclude only those issues that are traded on the New York Stock Exchange, Inc. (''NYSE''), the American Stock Exchange, Inc. (''Amex''), or Nasdaq/NMS, or where the Exchange is making a de minimis market for the security. Where the Exchange is the primary market for an issue, the Exchange specialists would have more of an opportunity to manipulate the market for the security and abuse the specialist position. Such a situation is less likely to occur in an issue that is also trading on the NYSE, Amex, or Nasdaq/NMS, or where the Exchange specialist is making a de minimis market for a security.[11]

Moreover, the Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Exchange's original proposal was published in the **Federal Register** for the full statutory period and no comments were received.[12] Amendment No. 3 alters the definition of an exclusive issue. Under the amended definition, the Exchange must have executed 15% or more of the volume in a particular issue during the three previous months for a security to qualify as an exclusive issue rather than 25% or more of the transactions as originally proposed. The Commission believes that a threshold based upon the volume of shares executed rather than upon the number of transactions is unlikely to alter the number of specialists affected by the proposed rule. Moreover, to the extent a threshold based upon volume would have such an effect, the Commission believes that the lower numerical percentage is likely to provide a sufficient cushion to offset any decrease in the number of specialists that otherwise would be affected by the proposed rule.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be

---

[6] An ''exclusive issue'' is defined in the proposed rule as the stock of any company traded on the Exchange not otherwise traded on the New York or American Stock Exchanges or Nasdaq/MNS, and, where there exists another market for such issue the Exchange has executed 15% or more of the volume in the issue during the three previous months. Amendment No. 3 amended the definition of ''exclusive issue,'' to include issues where the Exchange has executed *15% or more of the volume* in the issue during the three previous months rather than 25% or more of the transactions in the issue. In Amendment No. 3, the Exchange noted that, currently, 14 issues that are not traded on the New York or American Stock Exchanges or Nasdaq/NMS are traded on the Exchange and assigned to specialists. Of these 14 issues, the Exchange trades more than 25% of the volume of 7 issues and less than 4% in 7 issues. *See* letter from David Rusoff, Foley & Lardner, to Glen Barrentine, SEC, dated March 28, 1995.

[7] The term ''business transaction'' is intended to be interpreted broadly to include: loans, purchase of assets from the issuer, and acquisition of any beneficial ownership of shares of such issuer.

[8] 17 CFR 240.10a–1(e)(5). Rule 10a–1 generally prohibits persons from effecting a short sale or a registered security (a) below the price of the last sale, or (b) at such price if it is lower than the last sale at a different price. The exception provided for in paragraph (e)(5) permits registered specialists or registered exchange market maker (or a third market maker for its own account over-the-counter) to effect, for their own account, a sale (a) at a price equal to or above the last sale, or (b) at a price equal to the most recent offer communicated for the security by such registered person if such offer, when communicated, was equal to or above the last sale. In addition, the Rule expressly provides that an exchange may prohibit its registered specialists and market makers from availing themselves of the exemption if the exchange determines that such action is necessary or appropriate in its market, in the public interest, or for the protection of investors.

[9] 15 U.S.C. 78f(b) (1988).

[10] The Commission's review of the rules of the regional exchanges indicates that only the Boston Stock Exchange, Inc. (''BSE'') has a similar business transaction prohibition on equity specialists. *See Boston Stock Exchange Guide,* Chapter XV, Section 11, (CCH) ¶ 2149. The Rules of the Philadelphia Stock Exchange, Inc. (''Phlx'') prohibit only option specialists from conducting business transactions with an issuer of a security underlying an option in which the specialist is registered. *See Philadelphia Stock Exchange Guide,* rule 1023(a), (CCH) ¶ 3023.

[11] The Commission, however, does not dismiss the possibility that there may arise a situation in the future where it would be appropriate to extend the prohibition of the proposed rule to all specialists regardless of the issues in which they are registered. Although the 15% threshold provides a benchmark for determining when the Exchange is a primary market for a security, it may become appropriate at some point to impose the prohibition on all specialists because of the difficulties with monitoring exclusive issues through the use of historical data and the potential manipulating the volume of trading to avoid the prohibition.

[12] *See* Securities Exchange Act Release No. 35233 (Jan. 18, 1995), 60 FR 4651 (Jan. 24, 1995).

available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–94–22 and should be submitted by April 27, 1995.

Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CHX–94–22) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8491 Filed 4–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35554; File No. SR–CHX–94–26]

Self-Regulatory Organizations; The Chicago Stock Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

March 31, 1995.

On November 30, 1994, the Chicago Stock Exchange, Incorporated (''CHX'') filed a proposed rule change (File No. SR–CHX–94–26) with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'').[1] On December 14, 1994, CHX filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on January 4, 1995, to solicit comments from interested persons.[3] The Commission received one written comment.[4] As discussed below, this order approves the proposed rule change.

I. Description

In October 1993, the Commission adopted Rule 15c6–1 under the Act which will become effective June 7, 1995.[5] The rule establishes three business days after the trade date (''T+3''), instead of five business days (''T+5''), as the standard settlement cycle for most securities transactions. Several of the CHX's rules are interrelated with settlement timeframes. The purpose of the proposed rule change is to amend CHX's rules consistent with a T+3 settlement standard for securities transactions.

Article XX, Rule 9 will define regular way transactions as requiring delivery on the third business day after the trade date. Seller's option trades will settle not less than four business days nor more than sixty days following the day of the contract. Trades made for ''next day'' may include delivery on the first or second business day following the day of the contract. The proposed rule change also will eliminate references to the fourth and fifth full business day preceding the final day for subscription contained in Rule 9.

Article XXVII, Rule 1 will provide that stock transactions shall be ex-dividend or ex-rights two business days preceding the record date. With respect to record dates on other than a business day, stock transactions will be ex-dividend or ex-rights three business days preceding the record date.

Article XXVII, Rule 2 will require stock transactions to be ex-warrant on the second business day preceding the date of expiration of the warrants. When warrant expiration occurs on other than a business day, the ex-warrant period will begin on the third business day preceding the expiration date.

Article XXX, Rule 15 will require all claims involving erroneous comparisons to be made within two business days of the original trade date. Claims which concern the omission of a report will need to be made within two business days of the date the order should have been executed. Claims relative to a lack of comparison of a reported transaction will need to be made within two business days of the original trade.

CHX has requested that the proposed rule change become effective on the same date as Rule 15c6–1. Rule 15c6–1 is scheduled to become effective on June 7, 1995. The transition from T+5 settlement to T+3 settlement will occur over a four day period.[6]

II. Written Comment

The Commission received one comment letter from Thomson Trading Services, Inc. (''Thomson'') suggesting that additional regulatory changes may be necessary to implement T+3 settlement.[7] Thomson believes that the CHX should amend Article XV, Rule 5 which requires the use of the facilities of a securities depository for confirmation and acknowledgement of all depository-eligible transactions.

III. Discussion

The Commission believes the proposal is consistent with the requirements of Section 6 of the Act.[8] Specifically, Section 6(b)(5) states that the rules of the exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information. The CHX rules and other self-regulatory organizations' rules currently establish the standard time frame for settlement of securities transactions. On June 7, 1995, the new settlement cycle of T+3 will be established, as mandated by the Commission's Rule 15c6–1. As a result, the CHX's current rule establishing a T+5 settlement cycle will be inconsistent with the Commission rules. This proposal will amend the CHX's rules to harmonize them with a T+3 settlement cycle.

In addition, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it protects investors and the public interest by reducing the risk to clearing corporations, their members, and public investors which is inherent in settling securities transactions. The reduction of the time period for settlement of most securities transactions will correspondingly decrease the number of unsettled trades in the clearance and settlement system at any given time. Thus fewer unsettled trades will be subject to credit and market risk, and there will be less time between trade execution and settlement for the value of those trades to deteriorate.[9]

---

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b) (1988).

[2] Letter From David Rusoff, Foley & Lardner, to Christine Sibille, Senior Attorney, Office of Securities Processing, Division of Market Regulation, Commission (December 16, 1994).

[3] Securities Exchange Act Release No. 35155 (December 27, 1994), 60 FR 517.

[4] Letter from P. Howard Edelstein, President, Electronic Settlements Group, Thomson Trading Services, Inc., to Jonathan G. Katz, Secretary, Commission (January 25, 1995).

[5] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adopting Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (changing effective date from June 1, 1995, to June 7, 1995).

[6] Friday, June 2, will be the last trading day with five business day settlement. Monday, June 5, and Tuesday, June 6, will be trading days with four business day settlement. Wednesday, June 7, will be the first trading day with three business day settlement. As a result, trades from June 2 and June 5 will settle on Friday, June 9. Trades from June 6 and June 7 will settle on Monday, June 12.

[7] Letter from P. Howard Edelstein, President, Electronic Settlements Group, Thomson Trading Services, Inc., to Jonathan G. Katz, Secretary, Commission (January 25, 1995).

[8] 15 U.S.C. 78f (1988).

[9] The adopting release stated, ''the value of securities positions can change suddenly causing a market participant to default on unsettled positions. Because the markets are interwoven through common members, default at one clearing

Continued

While the Thomson letter supports the CHX's efforts to shorten the settlement cycle for securities transactions, Thomson believes that the CHX should amend Article XV, Rule 5, which requires the use of the facilities of a securities depository for the confirmation and acknowledgement of all depository-eligible transactions whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer. The Commission believes that the issue raised by the Thomson letter need not be resolved prior to the approval of the proposed rule change. Discussions regarding Thomson's concerns are underway among the Commission, Thomson, DTC, and the Securities Industry Association. The Commission will continue to work with the industry to address Thomson's concerns. However, if the proposed rule change is not approved prior to the June 7, 1995, effective date of Rule 15c6–1, the CHX rules will conflict with the Commission Rule 15c6–1.

The Thomson letter suggests that approval of the proposed rule change without amendments to Article XV, Rule 5 raises competitive concerns. Under the Act, the Commission's responsibility is to balance the perceived anticompetitive effects of a regulatory policy or decision against the purpose of the Act that would be advanced by the policy or decisions and the costs associated therewith. The Commission notes that the anticompetitive effects pointed to by Thomson, if in fact there are any anticompetitive effects, are not caused by the proposed rule change approved by this order but rather by an existing CHX rule. The Commission is reviewing Thomson's claim but does not believe that approval of this proposal will itself create any burdens on competition. Moreover, as discussed above, the rule advances fundamental purposes under the Act, namely the efficient clearance and settlement of securities.

IV. Conclusion

For the reasons stated above, the Commission finds that CHX's proposal is consistent with Section 6 of the Act.[10]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–CHX–94–26) be and hereby is approved, effective June 7, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8494 Filed 4–5–95; 8:45 am]

BILLING CODE 8010–01–M

corporation or by a major market participant or end-user could trigger additional failures resulting in risk to the national clearance and settlement system.'' Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[10] 15 U.S.C. 78f (1988).

[11] 15 U.S.C. 78s(b)(2) (1988)

[12] 17 CFR 200.30(a)(12) (1994).

[Release No. 34–35557; File No. SR–GSCC–94–10]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Implementing a Comparison Service for Repurchase and Reverse Repurchase Transactions Involving Government Securities as the Underlying Instrument

March 31, 1995.

On December 30, 1994, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–94–10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 2, 1995.[2] No comment letters were received regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

GSCC is amending its rules to provide comparison services for repurchase and reverse repurchase transactions involving government securities as the underlying instrument (''repos''). GSCC ultimately intends to provide comparison, netting, and risk management services for the opening (''on'') and closing (''off'') legs of all overnight repos (also referred to as next-day repos), term repos (also referred to as forward settling repos), and open repos, including the same-day settling aspects of those repos.[3]

GSCC will offer its repo services in three phases. The first phase will involve the provision of comparison and netting services. The pending proposal would authorize GSCC to implement the initial stage of the first phase, which is the provision of comparison services for overnight and term repos whether or not the on leg occurs before, on, or after the submission date.[4] GSCC will accept and compare data on all of the components of a repo transaction, including information on the on and off legs of a repo, with members providing such data via a single input. The second implementation phase of GSCC's planned repo services will focus on the provision of comparison, netting, and risk management services for open repos. The last phase of GSCC's planned implementation of repo services will focus on providing intraday netting and risk management services for the same-day settling aspects of repo transactions, including settlement of same-day settling start legs and close-outs of open repos.

The Phase 1 comparison process for repos is substantially similar to the comparison process offered by GSCC today. Each party to a repo will submit its transaction data to GSCC.[5] As is the case now for non-repo transactions, comparison of a repo trade will occur immediately upon the receipt by GSCC from two members of matching data. If all mandatory data fields that are required to match do in fact match, GSCC will generate a comparison.[6]

If the data on a repo remains uncompared at end-of-day, the submitter of the repo data will receive a report of an uncompared trade, and the participant being submitted against will receive an advisory. If a repo transaction has not yet been compared, it may be unilaterally canceled, and the submitter will receive notification of the cancellation. To cancel a repo that has

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35288 (January 27, 1995), 60 FR 6580.

[3] GSCC also intends to include such services as the tracking of rate changes and open repo interest, the provision to the funds borrower of coupon protection, the provision to all parties of a comprehensive audit trail for their repo activity, and the monitoring and facilitation of collateral substitutions.

[4] GSCC will file proposed rule changes for the authority to implement both the next stage of the first phase of repro services, which is the provision of netting and risk management services for the non-same-day settling aspects of next-day and forward settling repo transactions, and future phases of repo services.

[5] The proposed rule change establishes a new schedule of required data submission items applicable to all trades. In addition to the items on the schedule of required match data, a member must submit the broker reference number, contra submitting member's executing firm, executing firm, external reference number, price (rate), pricing method, and trade date. These fields are not matched.

[6] The following items must match for a trade to compare: (1) Contra member identifying information, (2) CUSIP number, (3) member's identifying number, (4) par amount (quantity), (5) settlement amount, (6) settlement date, and (7) transaction type (*i.e.*, buy, sell, repo, or reverse). In addition, these required match data items must match only for repo transactions: (1) start amount (*i.e.*, the contract value for the start leg of the repo transaction) and (2) start date (*i.e.*, the settlement date for the start leg of a repo transaction).

been compared, bilateral agreement is required. GSCC will delete trade data on repo transactions that remain uncompared from GSCC's comparison system the later of (1) the processing cycle after the second business day after the repo start date or (2) the processing cycle after the second business day after the date of submission of such data.

GSCC comparison output will continue to be available on an on-line basis. To be eligible for comparison, both submitting members must be deemed eligible for repo comparison processing by GSCC. GSCC will make such a determination based on the demonstration by a member of its ability to submit designated input to and receive designated output from GSCC.

The implementation of Phase 1 comparison services for repos requires certain modifications to GSCC's comparison processes. The ''transaction type'' data field will be expanded to include two additional transaction types: ''repo'' (designating the side of the repo transaction that is borrowing funds and lending securities) and ''revr'' (designating the side of the repo transaction that is lending funds and borrowing securities). Repos and reverse repos will compare only with each other and not with buy and sell activity. Two optional data fields have been added to bolster the comparison process for repos, the give-up broker field and the secondary reference number field. Dealer members may use the give-up broker field to identify the broker, if any, used to conduct the repo. GSCC will provide members with a standardized list of brokers for this purpose. The secondary reference number field may be used by dealers to provide additional identification information on the repos.

Two new mandatory match items for repo transactions will be introduced: start date and start amount. The repo start date will indicate the settlement date for the start leg of the repo. The repo start amount will contain the contract value for the start leg of the repo. Initially, a $1 per repo transaction tolerance for start amount will be established.

The repo rate will be a required submission field but will not be matched. If a participating member does not submit the settlement amount, GSCC will calculate it using the start amount, repo rate, and the number of days from start date to settlement date. Initially, a $1 per $1 million tolerance will be established for settlement amount. When the settlement amounts differ, but the difference falls within the tolerance, GSCC will generate the comparison based upon the amount submitted by the broker (for brokered trades) or upon the amount submitted by the deliverer of the repo close leg.

GSCC currently permits transactions that do not match in a few selected fields to compare in a process referred to as ''phased comparison.'' This program allows those transactions that do not match during real-time comparison to be compared at the end of the day based upon assumptions regarding which party submitted the correct data. Phased comparison of par summarization, settlement amount, and trade date will not apply to repo transactions.[7] Par summarization is the comparison of a trade based on a match of either the total of the par amounts on two or more buy sides equaling the par amounts on one or more sell sides or the total of the par amounts on two or more sell sides equaling the par amounts on one or more buy sides. The phased comparison tolerance of $40 per $1 million for unmatched settlement amounts on buy/sell trades will not apply to repo transactions. This tolerance is used by GSCC in its phased comparison process to account for commission differences.[8]

Phased comparison of the executing firm field and the contra party field will apply to repo transactions. Under phased comparison of the executing firm field, GSCC will compare trades having unmatched executing firm data based upon a match between the participant numbers of the two submitting members. Under phased comparison of the contra party field, GSCC may compare a trade if all details match except the contra party field, and the contra party affiliate submits the matching detail.

II. Discussion

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[9] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The initiation of comparison services for overnight and term repos will begin the process whereby GSCC will provide the benefits of centralized, automated comparison to a broader segment of government securities transactions.

Encompassing repos in CSCC's automated comparison process will provide industry participants with many benefits, including: (1) Elimination of the need for physical confirmations, (2) timely comparison of repo trade data, (3) enhanced ability for identification and correction of errors, (4) easier recordkeeping, (5) easier access to audit trail information, and (6) on-line inquiry capabilities. The proposal thus enhances the prompt and accurate clearance of repo transactions.

The proposed rule change also will implement a recommendation of the Joint Report on the Government Securities Market.[10] The Joint Report indicated that the market for repurchase and reverse repurchase agreements could benefit from automated comparison. Moreover, the Joint Report noted that automated comparison could enable regulators to obtain data on repos as necessary for surveillance purposes at little or no cost to market participants.[11]

GSCC noted in its filing that it has two physically-remote data processing sites with redundant hardware configuration. Further GSCC has run a pilot program whereby it collected live data to assess the impact of repo processing on its existing systems. The Commission believes that GSCC's automated facilities are sufficient to implement the comparison services for repos that are approved in this order, and the addition of these services will not diminish GSCC's ability to provide its current services for non-repo transactions in a safe, efficient, and timely manner.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with Section 17A(b)(3)(F) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–94–10) be, and hereby is approved.

---

[7] Phased comparison of trade date does not apply to repos because trade date is not a mandatory input field for repo comparison.

[8] However, as noted above, a $1 per $1 million tolerance will be applied to settlement amounts during real-time comparison.

[9] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[10] See, Joint Report on the Government Securities Market (January 1992) (''Joint Report''), prepared by the Department of the Treasury, the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System.

[11] *Id.* at 31. Activity in the government securities repo market is sizable. Centralized repo processing may give regulators a truer picture not only of the government securities market but also of each market participant's total risk profile, enabling GSCC, other clearing agencies, and regulators to refine their risk reduction policies.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8493 Filed 4–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35552; File No. SR–OCC–94–11]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

March 30, 1995.

On December 30, 1994, the Options Clearing Corporation (''OCC'') filed a proposed rule change (File No. SR–OCC–94–11) with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 2, 1995, to solicit comments from interested persons.[2] As discussed below, this order approves the proposed rule change.

I. Description

The proposed rule change will conform OCC's rules effective June 7, 1995, to Rule 15c6–1 under the Act. That rule establishes three business days after the trade date (''T+3''), instead of five business days (''T+5''), as the standard settlement cycle for most transactions in securities that underlie many OCC issued options. Rule 15c6–1 will become effective June 7, 1995.[3] As described below, OCC is revising several of OCC's rules that include references to underlying securities settlement time frames.

Under Rule 902, the assigned clearing member of an exercised call option contract or the exercising clearing member of an exercised put option contract will be required to deliver the underlying securities on the third business day following the day on which the exercise notice was given to OCC. Rule 2207 will provide that the settlement date for a stock loan will be three business days after the date on which the lending clearing member initiates the termination by notifying OCC. Rule 2208(b) will provide that if the lending clearing member initiates the termination of a stock loan and does not receive the loaned stock in its securities depository account within three business days, the stock loan shall be completed when (1) OCC has transferred the stock to the lending clearing member's account after OCC has received the securities from the borrowing member or (2) the lending clearing member has executed a buy-in. Rule 2208(b) also will provide that the lending clearing member may execute a buy-in three business days after initiating the termination or at any time thereafter if the lending clearing member has not received the loaned stock by such date.

OCC has requested that the proposed rule change become effective on the same date as Rule 15c6–1. Rule 15c6–1 is scheduled to become effective on June 7, 1995.[4]

II. Discussion

The Commission believes the proposal is consistent with the requirements of Section 17A of the Act.[5] Specifically, Section 17A(b)(3)(F)[6] states that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in OCC's custody and control or for which OCC is responsible, and to foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions. Several of OCC rules are based on a five day time frame for settlement of securities transactions. On June 7, 1995, the new settlement cycle or T+3 will be established, as mandated by the Commission's Rule 15c6–1. As a result, the OCC's current rule establishing a T+5 settlement cycle will be inconsistent with Commission rules. This proposal will amend the OCC's rules to harmonize them with a T+3 settlement cycle. Further, as discussed in the release adopting Rule 15c6–1, a shorter settlement time frame could encourage greater efficiency in clearing agencies and broker-dealer operations. Thus, the proposed rule change should enhance the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

For the reasons stated above, the Commission finds that OCC's proposal is consistent with Section 17A of the Act.[7]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–OCC–94–11) be and hereby is approved and will become effective June 7, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8421 Filed 4–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–20979; 812–9444]

Van Kampen Merritt Equity Opportunity Trust, Series, 7, et al.; Notice of Application

March, 30, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Van Kampen Merritt Equity Opportunity Trust, Series 7 and Van Kampen American Capital Distributors, Inc. (''Van Kampen American'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to permit a terminating series of a unit investment trust to sell portfolio securities to a new series of the trust.

FILING DATES: The application was filed on January 25, 1995 and amended on March 22, 1995.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 24, 1995 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature

[12] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 35265 (January 23, 1995), 60 FR 6583.

[3] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (changing effective date from June 1, 1995, to June 7, 1995).

[4] The transition from T+5 settlement to T+3 settlement will occur over a four day period. Friday, June 2, will be the last trading day with five business day settlement. Monday, June 5, and Tuesday, June 6, will be trading days with four business day settlement. Wednesday, June 7, will be the first trading day with three business day settlement. As a result, trades from June 2 and June 5 will settle on Friday, June 9. Trades from June 6 and June 7 will settle on Monday, June 12.

[5] 15 U.S.C. 79q–1 (1988).

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[7] 15 U.S.C. 78f (1988).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30(a)(12) (1994).

of the writer's request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicants, c/o Van Kampen Merritt Inc., One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

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.

Applicants' Representations

1. Van Kampen Equity Opportunity Trust (the ''Trust'') is a unit investment trust registered under the Act that will consist of a series (each a ''Trust Series'' or ''Series'') of unit investment trusts. Van Kampen American is the sponsor and depositor for each Trust Series. Applicants request that the relief sought herein apply to future similar Series of the Trust.

2. Each Trust Series will contain a portfolio of equity securities that represents a portion of a specific index (an ''Index''). The investment objective of each Trust Series is to seek a greater total return than that achieved by the stocks comprising the entire related Index over the life of the Trust Series. To achieve this objective, each Trust Series will consist of a specified number of the highest dividend yielding stocks in the Series' respective Index. The sponsor of the Series intends that, as each Series terminates, a new Series based on the appropriate Index will be offered for the next period.

3. Each Trust Series has or will have a contemplated date (a ''Rollover Date'') on which holders of units in that Trust Series (a ''Rollover Trust Series'') may at their option redeem their units in the Rollover Trust Series and receive in return units of a subsequent Series of the same type (a ''New Trust Series''). The New Trust Series will be created on or about the Rollover Date, and have a portfolio that contains securities (''Equity Securities'') that are (i) actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least 25,000 United States dollars) on an exchange (a ''Exchange'') which is either (a) a national securities exchange that meets the qualifications of section 6 of the Securities Exchange Act of 1934 or (b) a foreign securities exchange that meets the qualifications set out in the proposed amendment to rule 12d3–1(d)(6) under the Act as proposed by the SEC and that releases daily closing prices, and (ii) included in a published Index.

4. There is normally some overlap from year to year in the stocks having the highest dividend yields in an Index and, therefore, between the portfolios of each Rollover Trust Series and the New Trust Series. For example, of the ten securities selected for inclusion in United States Portfolio, Series 1 on April 1, 1994, nine are still among the top ten dividend yielding stocks as of the date of the application. Upon termination, each United States Portfolio Rollover Trust Series will sell all of its portfolio securities on the New York Stock Exchange as quickly as practicable. Similarly, a New Trust Series will acquire its portfolio securities in purchase transactions on the New York Stock Exchange. This procedure creates brokerage commissions on portfolio securities of the same issue that are borne by the holders of units of both the Rollover Trust Series and the New Trust Series. Applicants, therefore, request an order to permit any Rollover Trust Series to sell portfolio securities to a New Trust Series.

5. In order to minimize the possibilities of overreaching in these transactions, the applicants agree that Van Kampen American will certify to the trustee, within five days of each sale from a Rollover Trust Series to a New Trust Series, (a) that the transaction is consistent with the policy of both the Rollover Trust Series and the New Trust Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Exchange for the sale date of the securities subject to such sale. The trustee will then countersign the certificate, unless, in the unlikely event that the trustee disagrees with the closing sales price listed on the certificate, the trustee immediately informs Van Kampen American orally of any such disagreement and returns the certificate within five days to Van Kampen American with corrections duly noted. Upon Van Kampen American's receipt of a corrected certificate, if Van Kampen American can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, Van Kampen American will ensure that the price of units of the New Trust Series, and distributions to holders of the Rollover Trust Series with regard to redemption of their units or termination of the Rollover Trust Series, accurately reflect the corrected price. To the extent that Van Kampen American disagrees with the trustee's corrected price, Van Kampen American and the trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally makes it unlawful for an affiliated person of a registered investment company to sell securities to or purchase securities from the company. Investment companies under common control are affiliates of one another. Each Trust Series will have an identical or common Sponsor that may be considered to control each Trust Series.

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Under section 6(c), the SEC may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

3. Rule 17a–7 under the Act permits registered investment companies that are affiliates solely by reason of common investment advisers, directors, and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor the procedures for these transactions to assure compliance with the rule. A unit investment trust does not have a board of directors and, therefore, may not rely on the rule. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraph (e).

4. Applicants represent that purchases and sales between Series will be consistent with the policy of the Trust, as only securities that otherwise would be bought and sold on the open market pursuant to the policy of each Trust Series will be involved in the proposed transactions. Applicants further believe that the current practice of buying and selling on the open market leads to unnecessary brokerage fees and is

therefore contrary to the general purposes of the Act. In order to minimize the possibility of overreaching, applicants have agreed to comply with the conditions discussed below.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each sale of Equity Securities by a Rollover Trust Series to a New Trust Series will be effected at the closing price of the securities sold on the applicable Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, it any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each future Rollover Trust Series and New Trust Series.

3. The trustee of each Rollover Trust Series and New Trust Series will (a) review the procedures relating to the sale of securities from a Rollover Trust Series and the purchase of those securities for deposit in a New Trust Series, and (b) make such changes to the procedures as the trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a–7(f).

For the Commission, by the Division of Investment Management under delegated, authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8422 Filed 4–5–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2767]

Pennsylvania; Declaration of Disaster Loan Area

Montgomery County and the contiguous counties of Berks, Bucks, Chester, Delaware, Lehigh, and Philadelphia in the State of Pennsylvania constitute a disaster area as a result of damages caused by a fire which occurred on March 7, 1995 in Norristown Borough. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on May 30, 1995, and for economic injury until the close of business on January 2, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 276705 and for economic injury the number is 849800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 30, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–8455 Filed 4–5–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2185]

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Committee Meeting on Thursday, June 15, 1995 at 9:30 a.m. in Conference Room 1408, Department of State Building, 2201 C Street, NW., Washington, DC The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas which are assisted by the Department of State and which are attended by dependents of U.S. government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Access to the State Department is controlled and individual building passes are required for each attendee. Persons who plan to attend should so advise the office of Dr. Ernest N. Mannino, Department of State, Office of Overseas Schools, SA–29, Room 245, Washington, DC 20522–2902, telephone 703–875–7800, prior to May 18, 1995. Visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting. All attendees must use the C Street entrance to the building.

Dated: March 24, 1995.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 95–8418 Filed 4–5–95; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 2186]

Shipping Coordinating Committee, Maritime Safety Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 A.M. on Wednesday, May 3, 1995, in Room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of this meeting will be to finalize preparations for the 65th Session of the Maritime Safety Committee (MSC 65), and associated bodies of the International Maritime Organization (IMO), which is scheduled for May 9–17, 1995 at IMO Headquarters in London. At the meeting, papers received and the draft U.S. positions will be discussed.

Among other things, the items of particular interest are:

a. RO/RO ferry safety
b. Bulk carrier safety
c. Role of the human element
d. Existing ship safety standards
e. Strategy for ship/port interface, and
f. Report of eight subcommittees, Bulk Chemicals, Radio Communications, Ship Design and Equipment, Training and Watchkeeping, Flag State Implementation, Stability, Loadlines and Fishing Vessels, Containers and Cargoes, and Lifesaving, Search and Rescue

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing to Mr. Joseph J. Angelo, U.S. Coast Guard Headquarters (G–MI), 2100 Second Street, SW., Room 2408 Washington, DC

20593–0001 or by calling (202) 267–2970.

Dated: March 22, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–8490 Filed 4–5–95; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Downeast Flying Service, Inc.

AGENCY: Department of Transportation

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 95–3–59, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Downeast Flying Service, Inc., fit, willing, and able to provide commuter air service under 49 U.S.C. 41738 (see former section 419(e) of the Federal Aviation Act).

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, X–56, Department of Transportation, 400 Seventh Street, S.W., Room 6401, Washington, D.C. 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Carol Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: March 31, 1995

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–8505 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–94–14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Commens on petitions received must identify the petition docket number involved and must be received on or before April 21, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Petition Docket No. 28179, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on March 31, 1995.

Donald B. Byrne,

Assistant Chief Counsel, Regulations Division.

Petitions for Exemption

Docket No.: 8179.

Petitioner: The Federal Aviation Administration (FAA), Washington Flight Program (Hangar 6).

Sections of the FAR Affected: 14 CFR 135.251 and 135.255(a).

Description of Relief Sought/ Disposition: To permit all Federal Aviation Administration Washington Flight Program (Hangar 6) management, pilot, and maintenance personnel, already included in the Department of Transportation (DOT) internal drug and alcohol testing program (DOT Order 3910.1C), to utilize that program (The Drug and Alcohol-Free Departmental Workplace) in lieu of these sections.

[FR Doc. 95–8411 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Mammoth Lakes Airport, Mammoth Lakes, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use revenue from a PFC at Mammoth Lakes Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and 14 CFR Part 158.

DATES: Comments must be received on or before May 8, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Lawndale, CA. 90261 or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bill Manning, Airport Manager of the Mammoth Lakes Airport, at the following address: The Town of Mammoth Lakes, P.O. Box 1609, Mammoth Lakes, California 93546. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Town of Mammoth Lakes under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriquez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mammoth Lakes Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 22, 1995, the FAA determined that the application to impose and use a PFC submitted by the Town of Mammoth Lakes was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 21, 1995.

The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: August 1, 1995.

Proposed charge expiration date: August 1, 2002.

Total estimated PFC revenue: $166,826.00.

Brief description of the proposed projects: Environmental Assessment Study, Property Boundary Surveys, Airport Master Plan Update, Acquire Airport Land for the Town of Mammoth Lakes, Purchase Snowblower Equipment, Saw and Seal Runway and Taxiway Pavements, Installation of Airfield Signage, Airfield Markings, Upgrade AWOS 1 to AWOS 3, and Acquisition of Radios for Airport Emergency and Operations Equipment, and Construct Terminal Parking Lot.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Town of Mammoth Lakes, CA.

Issued in Hawthorne, California, on March 27, 1995.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 95–8506 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement, Dallas County; the Cities of Carrollton, Farmers Branch, and Irving, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Dallas County, Texas.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathy Dimpsey, Environmental Coordinator, Federal Highway Administration, 826 Federal Building, 300 East 8th Street, Austin, Texas 78701, or Mr. James W. Griffin, Executive Director, Texas Turnpike Authority, P.O. Box 190369, Dallas, Texas 75219.

SUPPLEMENTARY INFORMATION: The proposed project is the construction of a limited access highway on new right-of-way which would connect the planned S.H. 190 at I.H. 35E in the city of Carrollton with the planned S.H. 161 at I.H. 635 in the City of Irving, Texas. The study segment is slightly more than five miles in length. If feasible, the proposed facility will be constructed as a toll road with provision for multi-modal operation. When constructed, the facility will be an integral part of the regional transportation plan, relieving the already congested I.H. 35E (Stemmens Freeway) corridor and provide an additional outer loop through Dallas County.

Alternatives under consideration include (1) do nothing, (2) constructing a limited access highway, (3) construct a limited access highway with provisions for high occupancy vehicle (HOV) lanes or transit, and (4) alternative alignments.

Scoping meetings will be held to provide other federal and State agencies and the general public opportunities to review the proposed project and to provide early input with regard to areas of concern. The draft EIS and other pertinent materials will be made available for public and agency review and comment prior to a public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on: March 30, 1995.

Peter A. Lombard,

Director, Office of Planning and Program Development, Fort Worth, Texas.

[FR Doc. 95–8479 Filed 4–5–95; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 30, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Testing sessions to measure effectiveness of comprehensibility scoring formula methodology.

Description: To further its corporate goal of reducing taxpayer burden, the IRS is conducting research to evaluate a methodology for improving the comprehensibility of tax forms. Testing sessions are necessary to provide quantitative evaluation. Subjects will include 1040 and 1040A tax filers. IRS will use the results to improve tax forms and publications.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,600.

Estimated Burden Hours Per Respondent: 2 hours, 10 minutes.

Frequency of Response: Other (one-time testing sessions).

Estimated Total Reporting Burden: 3,267 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–8462 Filed 4–5–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review.

March 28, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the satisfaction survey described below in a timely manner, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by March 31, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432

Survey Project Number: IRS PC:V 95–006–G

Type of Review: Revision

Title: Sacramento Info California (InfoCal) Kiosk Survey

Description: Recently, the State of California deployed a computer-based, touch-screen, multi-media kiosk system—called Info California (InfoCal)—that offers the public a wide range of government services and assistance. InfoCal is designed to offer customers a ''one-stop'' opportunity to transact whatever governmental services and assistance they need regardless of whether it is at the federal, state or local government level. This survey will provide qualitative information from customers who have had a need to visit a kiosk. Specifically, IRS will collect data regarding what topics customers want on the kiosk which are presently absent, as well as valuable feedback about the nature and adequacy of current topics and ease of kiosk use.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 17 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–8463 Filed 4–5–95; 8:45 am]

BILLING CODE 4830–01–P

Customs Service

Announcement of National Customs Automation Program Test Regarding Remote Location Filing

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct the first of at least two prototype tests regarding remote location filing. This notice invites public comments concerning any aspect of the planned test, informs interested members of the public of the eligibility requirements for voluntary participation in the testing of the first prototype, and describes the basis on which Customs will select participants.

EFFECTIVE DATE: The test of the first prototype will commence no earlier than June 1, 1995, and will run for approximately six months. Comments concerning the methodology of the first remote filing prototype must be received on or before May 8, 1995. To participate in the first prototype test, the necessary information, as outlined in this notice, must be filed with Customs on or before May 8, 1995.

ADDRESSES: Written comments regarding this notice and information submitted to be considered for voluntary participation on the first prototype should be addressed to the Remote Filing Team, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 1322, Washington, D.C. 20229–0001.

FOR FURTHER INFORMATION CONTACT: For systems or automation issues: Russ Lanouette (202) 927–0322, or Jackie Jegels (202) 927–0201.

For operational or policy issues: Linda LeBaron (202) 927–0424.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411–1414), which define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for remote location filing (RLF) (section 414). Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), implements the testing of NCAP components. See, T.D. 95–21 (60 FR 14211, March 16, 1995).

I. Description of Proposed Test

The Concept of Remote Location Filing

Remote Location Filing (RLF) will allow a program participant to file electronically an entry of merchandise with Customs from a location within the United States other than at the port of arrival or location of examination. Due to the nature of this prototype test, certain Customs Regulations pertaining to brokers permits, surety bonds, and the entry of merchandise will be suspended.

Since June of 1994, the Customs Remote Team has shared Customs RLF concept through many public meetings and concept papers, and other information on RLF has been distributed on the Customs Electronic Bulletin Board and the Customs Administrative Message System.

Customs intends to conduct at least two prototypes of the RLF component of the NCAP. These tests will determine the system and operational design of the RLF, which will allow all filers to participate in this type of entry process at a national level. At this time, how the final RLF program will operate is unknown. Prototype participants must recognize that these are true prototypes to test the benefits and potential problems of RLF for Customs, the trade community, and other parties impacted by this program. It is important to note that time and money spent on these prototypes may not carry forward to the final program.

Description of RLF Program

Customs plans to implement RLF are based on blending the experiences of the planned remote prototypes with other Customs initiatives such as the Reorganization, ACS Redesign (ACE), and Trade Compliance Process

Improvement. The Customs RLF team's objectives are:

(1) To work with the trade community, other agencies, and other parties impacted by this program in the design, conduct and evaluation of a limited prototype test of RLF;

(2) To obtain experience through prototype tests of remote location filing for use in the design of operational procedures, automated systems, and regulations that are supportive and compatible with the Customs Reorganization, the Trade Compliance Process Improvement, and the ACE redesign; and

(3) To implement RLF on a national level after the completion of the Reorganization, the Trade Compliance Process Improvement, and the ACE Redesign.

The first RLF prototype (Prototype One) will commence no sooner than June 1, 1995, and is scheduled to run for approximately six months. Prototype One will be conducted with a very limited number of participants at limited locations. This is due to the fact that this prototype will be conducted with minimal system changes thereby requiring Customs to intervene manually in tracking and processing. All procedures and processes will be closely coordinated with all selected and affected parties. The intent of this prototype is to test such operational issues as communication, cargo movement and release, and service to and from remote locations. This prototype will also test features such as filing from a remote location, alternate exam location, and possibly entry summary workload distribution.

The second remote prototype (Prototype Two) is tentatively scheduled to commence no sooner than June 1, 1996. Prototype Two will continue to evaluate operational impact and procedures, and begin addressing additional systemic needs. The work completed by Customs Trade Compliance process improvement teams and the Automated Commercial Environment (ACE or the ACS Redesign), and experience gained from Prototype One will be incorporated into this prototype.

Regulatory Provisions Suspended

Certain provisions in Part 111, pertaining to Customs brokers, Part 113, pertaining to Customs bonds, and Part 141, pertaining to the entry of merchandise, of the Customs Regulations (19 CFR Parts 111, 113, and 141) will be suspended during this prototype test to allow remote filings by brokers in districts where they currently do not hold permits, and to allow for the movement of cargo from its port of arrival to a designated examination site.

II. Eligibility Criteria

Note that participation in this testing will not constitute confidential information and that lists of participants will be made available to the public upon written request.

In order to qualify for filing from a remote location, a program participant in the prototype must have the capability to provide, on an entry-by-entry basis, the electronic entry of merchandise; the electronic entry summary of required information; the electronic transmission of invoice information (ABI/AII or EDIFACT); and the electronic payment of duties fees, and taxes (ACH). Other requirements and conditions are as follows:

1. Participants and requested Customs locations must have operational experience with the Customs Electronic Invoice Program (EIP) with either ABI/AII or EDIFACT. Locations available for prototype participation are those ports currently operating with EIP release and summary processing. It is possible that additional ports may be available when the first prototype commences. The following are locations currently operational with EIP. (S/P indicates summary processing location and R/P indicates release processing location).

DDPP location	Electronic processing status
0101 Portland ME	S/P.
0106 Houlton ME	R/P, S/P done in 0101.
0115 Calais ME	R/P, S/P done in 0101.
0401 Boston	R/P.
0901 Buffalo	S/P.
0903 Rochester	R/P, S/P done in 0901.
1001 New York Seaport.	R/P, S/P.
1101 Philadelphia	R/P, S/P.
1102 Chester PA	R/P, S/P done in 1101.
1103 Wilmington DE	R/P, S/P done in 1101.
1108 Philadelphia Airport.	R/P, S/P done in 1101.
1303 Baltimore Seaport.	R/P, S/P.
1401 Norfolk	R/P.
1601 Charleston	R/P.
1703 Savannah	R/P.
1803 Jacksonville	R/P.
2002 New Orleans	R/P.
2304 Laredo	R/P, S/P.
2704 Los Angeles	R/P, S/P done in Terminal Island, CA.
2809 San Francisco	R/P.
3001 Seattle	R/P.
3701 Milwaukee	R/P.
3801 Detroit	R/P.
3901 Chicago	R/P.
4101 Cleveland	S/P.
4102 Cincinnati	R/P, S/P done in 4101.
41## Louisville	R/P, S/P done in 4101.
4601 Newark	R/P, S/P.
4701 JFK	R/P, S/P.
5201 Miami	R/P, S/P.
5203 Port Everglades	R/P, S/P done in 5201.
5206 Miami Airport	R/P, S/P done in 5201.
5301 Houston	R/P.

2. Participants must be operational on the Automated Clearing House (ACH) 30 days before Prototype One commences;

3. Only entry types 01 (consumption) and 11 (informal) will be accepted;

4. Cargo release must be certified from the entry summary (EI) transaction with the exception of immediate delivery explained in #5;

5. Participants will be allowed to file Immediate Delivery releases for direct arrival road and rail freight at the land border (essentially 19 CFR 142.21(a)) with use of paper invoices under Line Release, Border Cargo Selectivity (BCS), or Cargo Selectivity (CS). Submission of all line items at the time of release will be required of northern border filers, if the release is effected using BCS or CS. If an examination is required for a line release transaction, the filer must submit all relevant line item information through BCS or CS. Under BCS and CS, the examination will be performed at the port of arrival with the use of paper invoices. If the filer wishes the examination to be performed at an alternate site, full entry summary information (EI transaction) with electronic invoice must be transmitted;

6. Participants will not be allowed to file an RLF against cargo that has been moved in-bond;

7. Participants will be required to use OGA interfaces where they are available; and

8. If an examination is determined necessary, cargo will be examined at the Customs port of arrival, or, at Customs discretion, a filer's requested designated examination site which would be a Customs port which is at or nearest the final destination. This movement of cargo to a designated examination port will be under the importer's bond.

9. A participant must maintain an average of 1–2 entries per day throughout the testing of the prototype.

Customs will work with participants to ensure that:

(1) Customs contacts and problem solving teams are established.

(2) Procedures for remote entry and entry summary processing are prepared.

(3) Notification to the participant's contact person of the examination site is arranged.

Prototype One Application

This notice requests importers or brokers on behalf of importers to voluntarily apply for participation in Prototype One by submitting the following information to the Remote Filing Team, U.S. Customs Service, 1301 Constitution Avenue, N.W. Room 1322, Washington, D.C. 20229–0001 on or before the date set forth in the effective date paragraph at the beginning of this notice:

1. Importer name and, if applicable, broker name, address, and filer code.
2. Supplier name, address, and manufacturer's number.
3. Types of commodities to be imported.
4. Other agency requirements.
5. Port(s) of arrival.
6. Designated examination site(s) (location nearest the final destination).
7. Monthly volume anticipated.
8. Requested entry summary processing location(s), if different from the port of arrival.
9. Electronic Invoicing Program status and projected start date.
10. Electronic Payment (ACH) status and projected start date.
11. Main contact person and telephone number for participation questions.
12. Any comments on prototype participation.

Basis for Participant Selection

Eligible importers or importers with brokers will be considered for selection as participants in Prototype One. Customs is looking for a variety of circumstances and participants in this first prototype; however, only a small number of participants will be selected. We stress that those not selected for participation will be invited to comment on the design, conduct, and evaluation of this prototype. Selection will be based on EIP operational experience, volume anticipated, electronic abilities, and available electronic interfaces with other agencies import requirements. Participants selected will be notified by means of the Customs Electronic Bulletin Board and the Customs Administrative Message System.

III. Test evaluation criteria

Once participants are selected, Customs and the participants will meet to review all public comments received concerning any aspect of the test program or procedures, finalize procedures in light of those comments, form problem-solving teams, and establish baseline measures and evaluation methods and criteria. At 90 days and 180 days after commencement, evaluations of the prototype will be conducted, with the final results published in the **Federal Register** as required by § 101.9(b). The following evaluation methods and criteria have been suggested:

1. Baseline measurements will be established through dataqueries and questionnaires.
2. Reports will be run through use of dataquery throughout the prototype.
3. Questionnaires will be conducted before, during, and after the prototype period.

Preliminary ideas for evaluation criteria for Customs and other government agencies are workload impact (workload shifts, cycletime, etc.), policy and procedural accommodation, trade compliance impact, alternate exam site issues (workload shift, coordination/communication, etc.), problem solving, system efficiency, and the collection of statistics. Criteria ideas for the trade are service in cargo clearance and problem resolution, cost benefits, system efficiency, operational efficiency, and other items identified by the participant group.

In conclusion, it is emphasized that if a company is interested in filing remotely, they must first be operational with the Electronic Invoicing Program (EIP). For information on the Electronic Invoicing Program (EIP), please contact your ABI Client Representative.

Dated: March 30, 1995.

Samuel H. Banks,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 95–8429 Filed 4–5–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–25]

Country of Origin Marking of Products From the West Bank and Gaza

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

ACTION: Notice of Policy.

SUMMARY: This document notifies the public that, for country of origin marking purposes, goods which are produced in the West Bank and Gaza Strip shall be properly marked as ''West Bank,'' ''Gaza'' or ''Gaza Strip'' and shall not contain the words ''Israel,'' ''Made in Israel,'' ''Occupied Territories-Israel,'' or words of similar meaning.

EFFECTIVE DATE: For those persons whose ruling is revoked, the position set forth in this document is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 19, 1995; for all other persons, this document is effective on April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Wende Schuster, Special Classification and Marking Branch (202) 482–6980.

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Failure to mark an article in accordance with the requirements of 19 U.S.C. 1304 shall result in the levy of a duty of ten percent *ad valorem*. Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

Past Policy

In the past, Customs has taken the position that in order for the country of origin marking of a good which is produced in the West Bank or Gaza Strip to be considered acceptable, it must be marked with the words ''Israel,'' ''Product of Israel,'' or ''Israeli-Occupied West Bank (or Gaza),'' or words of similar meaning. In all such instances, Customs required that the word ''Israel'' must appear in the marking designation. For instance, in HRL 718329 dated December 21, 1981, Customs held that it is acceptable to mark goods which were produced on the West Bank of the Jordan River with the phrase ''Israeli-Occupied West Bank,'' ''Made in Israel,'' or ''Israel'' and to indicate such marking designation on the Certificate of Origin Form A for purposes of the Generalized System of Preferences (GSP). In another case concerning goods produced on the West Bank of the Jordan River (HRL 718125 dated November 12, 1981), Customs held that these goods must be marked with the designators ''Israeli-Occupied West Bank'', ''Made in Israel'', or ''Israel'' for purposes of indicating the country of origin of the merchandise pursuant to 19 U.S.C. 1304. In addition, in HRL 730094 dated January 30, 1987, Customs held that the proper country of origin marking designation for soap which is produced in the West Bank is ''Israeli-occupied West Bank'' or simply ''Israel''. Finally, in HRL 734609 dated May 26, 1992, which concerned the

proper country of origin marking of fruits and vegetables imported into the U.S. from the Gaza Strip, Customs held that the designation ''West Bank'' is not an acceptable country of origin marking because the United States does not recognize the West Bank territory as an independent political entity. Consequently, Customs stated in HRL 734609 that as the Gaza Strip has a similar status as the West Bank, the country of origin markings, ''Israel-Occupied Gaza,'' ''Made in Israel,'' or ''Israel'' but not simply the word ''Gaza'' can be used on goods which are produced in Gaza.

Recognition of West Bank and Gaza Strip

The Department of State has advised that in accordance with the Israeli-PLO Declaration of Principles on Interim Self-Government Arrangements (''the DOP''), which was signed in Washington, D.C. on September 13, 1993, Israel has agreed to transfer certain powers and responsibilities to the Palestinian Authority. Under this Agreement, Israel has also consented to make a similar transfer to a superseding, elected Palestinian Council, as part of interim self-governing arrangements in the West Bank and Gaza Strip. As part of this Agreement, the Palestinian Authority has agreed to administer its own tariff revenue collection and other customs matters. The Palestinian Authority also acceded to set its own tax policy under the terms of an implementing agreement which was concluded in Cairo on May 4, 1994. In view of these recent developments, the U.S. Department of the State has advised the U.S. Department of the Treasury by letter dated October 24, 1994, that, in their view, the primary purpose of 19 U.S.C. 1304 would be best served if goods which are produced in the West Bank and Gaza Strip are permitted to be marked ''West Bank'' or ''Gaza Strip.'' The Department of State believes that labeling goods as coming from the ''West Bank'' or ''Gaza'' will provide American purchasers with important information indicating their origin, which is the primary purpose of 19 U.S.C. 1304.

Reliance Upon Advice From State Department

Customs has previously relied upon advice received from the U.S. Department of State in making determinations regarding the ''country of origin'' of a good for marking purposes. In T.D. 49743 dated November 10, 1938, the question was whether products imported from German-occupied territories were regarded as products of Germany for the purposes of the marking provisions of the Tariff Act of 1930, and for determining applicable rates of duty. Based upon instructions given by the U.S. Department of State, Customs held that as a result of a change in jurisdiction from Czechoslovak to German in the Sudeten areas which were under German occupation, products which were manufactured in those areas and were exported on or after the date of German occupation were considered products of Germany for purposes of country of origin marking.

In *United States v. Friedlaender & Co., Inc.*, C.C.P.A. (February 26, 1940), the issue involved the proper country of origin marking of imported merchandise which was wholly manufactured in Czechoslovakia, except at the time the goods were exported, the territory in which the goods were manufactured was under German occupation. Customs held that marking the goods as products of Czechoslovakia was not acceptable, based upon instructions set forth in T.D. 49743. The court agreed with Customs and held that as the goods were exported at a time when that part of Czechoslovakia in which the goods were manufactured was under German occupation, the marking ''Czechoslovakia'' was not in compliance with the requirements of the marking statute, and the goods should be marked to indicate ''Germany'' as the country of origin. However, in a later Treasury Decision (T.D. 51360 dated November 30, 1945), the position taken by Customs in T.D. 49743 was rescinded. In T.D. 51360, Customs stated that the U.S. Department of State advised that the boundaries of Czechoslovakia had been reestablished as they existed prior to the date of the occupation by Germany, and that the United States recognized Czechoslovakia as an independent state. Based upon this information, Customs reversed the position taken in T.D. 49743, and concluded that articles which were manufactured or produced in Czechoslovakia after May 8, 1945, should be regarded as products of Czechoslovakia for purposes of the marking provisions of the Tariff Act of 1930.

Accordingly, consistent with prior Customs decisions, Customs is relying upon advice from the Department of State for purposes of defining the term ''Country'' within the meaning of section 134.1(a), Customs Regulations (19 CFR 134.1(a)).

Revocation of Prior Rulings

On November 23, 1994, Customs issued telex 6327071, which stated that Customs was proposing to change its position regarding the country of origin marking requirements for goods made in the West Bank and Gaza Strip. In the telex, Customs stated that effective immediately merchandise which is produced in the West Bank or Gaza Strip may be properly marked with the words ''West Bank,'' ''Gaza,'' or ''Gaza Strip,'' without the words ''Israel,'' ''Product of Israel,'' or ''Israeli-Occupied West Bank,'' or words of similar meaning, also appearing in the marking designation. The telex further stated that Customs would publish a notice in the *Customs Bulletin* requesting public comment on the modification or revocation of prior rulings concerning this matter. However, it was further noted in the telex that until such modification or revocation is effected, the prior rulings concerning the proper marking of goods made in the West Bank or Gaza Strip would remain valid and goods may continue to be marked in accordance with them.

On February 8, 1995, Customs published a notice in the *Customs Bulletin* (Volume 29, Number 6), proposing to revoke Headquarters Ruling Letters (HRL—s) 718329, 718125, 730094, and 734609, to reflect the position that goods which are produced in the West Bank or Gaza Strip shall be regarded as a product of the West Bank or Gaza Strip in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR Part 134, and shall be marked as ''West Bank,'' ''Gaza'' or ''Gaza Strip,'' and shall not contain the words ''Israel,'' ''Made in Israel,'' ''Occupied Territories-Israel,'' or words of similar meaning.

Two comments received in response to the February 8, 1995, *Customs Bulletin* notice both of which were favorable to the Customs proposal. One commenter, however, suggested that Customs expand the proposed position by allowing goods which are produced in the West Bank or Gaza Strip to be marked as ''West Bank,'' ''Gaza,'' ''Palestine,'' ''West Bank, Palestine,'' or ''Gaza, Palestine.'' The U.S. Department of State has not identified the area within the West Bank or Gaza Strip as one that should be recognized as ''Palestine.'' Therefore, articles which are produced in the West Bank or Gaza Strip may not be marked as products of ''Palestine.''

New Position

This document notifies the public that unless excepted from marking, goods

which are produced in the territorial areas known as the West Bank or Gaza Strip shall be marked as ''West Bank,'' ''Gaza,'' or ''Gaza Strip'' in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR Part 134, and shall not contain the words ''Israel,'' ''Made in Israel,'' ''Occupied Territories-Israel,'' or words of similar meaning. This document also revokes prior ruling letters (HRL's 718329, 718125, 730094, and 734609) regarding the country of origin marking requirements for goods which are produced in the West Bank and Gaza Strip. For those persons whose ruling is revoked, the position stated in this document is effective for merchandise which is entered or withdrawn from warehouse for consumption on or after 60 days from the date this document is published in the *Customs Bulletin;* for all other persons, this document is effective on the date of publication in the **Federal Register**.

Dated: April 3, 1995.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 95–8454 Filed 4–5–95; 8:45 am]

BILLING CODE 4820–02–P

Fiscal Service

[Dept. Circ. 570, 1994 Rev., Supp. No. 17]

Surety Companies Acceptable on Federal Bonds, American Reliable Insurance Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 Revision, on page 34144 to reflect this addition:

American Reliable Insurance Company. Business Address: 8655 East Via De Ventura, Scottsdale, Arizona, 85258. Phone: (602) 483–8666. Underwriting Limitation b/: $1,899,000. Surety Licenses c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, HH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WY. Incorporated in: Arizona.

Certificates of authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CF part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Hyattsville, MD 20782, telephone (202) 874–7116.

Dated: March 29, 1995.

Charles F. Schwan,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–8496 Filed 4–5–95; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1994 Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds; Reliance Insurance Company of Illinois

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 Revision, on page 34174 to reflect this addition:

Reliance Insurance Company of Illinois. Business Address: 4 Penn Center Plaza, Philadelphia, PA 19103. Phone: (215) 864–4000. Underwriting limitation *b*: $1,464,000. Surety License *c*/: IL Incorporated in: Illinois.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Hyattsville, MD 20782, telephone (202) 874–6507.

Dated: March 29, 1995.

Charles F. Schwan,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–8495 Filed 4–5–95; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 66

Thursday, April 6, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at approximately nine o'clock a.m. on Tuesday, March 27, 1995 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide five appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Six Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Carol Pavilack Getty, Jasper Clay, Jr., Vincent J. Fechtel, Jr., John R. Simpson, and Michael J. Gaines.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 3, 1995.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 95–8596 Filed 4–4–95; 11:45 am]

BILLING CODE 4410–01–M

Corrections

Federal Register

Vol. 60, No. 66

Thursday, April 6, 1995

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 77N-334S]
RIN 0905-AA06

Topical Drug Products for Over-the-Counter Human Use; Products for the Prevention of Swimmer's Ear and for the Drying of Water-Clogged Ears; Final Rule

Correction

In rule document 95–3803 beginning on page 8916 in the issue of Wednesday, February 15, 1995, make the following correction:

On page 8918, in the third column, in the second full paragraph, in the sixth line from the bottom, ''≤'' should read ''>''.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 94N-0380]

Gastroenterology-Urology Devices; Effective Date of the Requirement for Premarket Approval of the Implanted Mechnical/Hydraulic Urinary Continence Device

Correction

In proposed rule document 95–3805 beginning on page 8595 in the issue of Wednesday, February 15, 1995, make the following correction:

On page 8607, in the second column, in Reference 29., in the fourth line, ''*Hospital Medicine*,'' should read ''*Urology*,''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-080-1430-01; UTU-71261]

Notice of Realty Action

Correction

In notice document 95–6694 beginning on page 15152 in the issue of Wednesday, March 22, 1995, make the following corrections:

1. On page 15153, in the table, in Parcel No. 14, in the land description, the first line should read ''T. 3 S., R. 20 E.,''.

2. On page 15154, in the table, in Parcel No. 39, in the land description, the second line should read ''Sec. 15: NW¼NE¼.''.

BILLING CODE 1505–01–D

Federal Register

Thursday
April 6, 1995

Part II

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe; Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Federated Coast Miwork, c/o Greg Sarris, 2062 No. Sycamore Avenue, Los Angeles, California 90068; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on February 8, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, N.W., Washington, D.C. 20240, Phone: (202) 208–3592.

Dated: March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8306 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9 (a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Cowasuck Band-Abenaki People, c/o Paul W. Pouliot, 160 Dailey Drive, Franklin, Massachusetts 02038–2951; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian Tribe. The petition was received by the Bureau of Indian Affairs (BIA) on January 23, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated: March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8302 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Katalla-Chilkat Tlingit Tribe of Alaska, c/o Gary C. Patton, 1001 Boniface Parkway, Suite 45p, anchorage, Alaska 99504; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on February 2, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated: March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8303 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Pee Dee Indian Association, Inc., c/o David C. Locklear, P.O. Box 557, McColl, South Carolina 29570; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on January 30, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the

same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated: March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8307 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Amonsoquath Tribe of Cherokee, c/o Martin Wilson, P.O. Box 296, Deering, Missouri 63840–0296; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on February 17, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8305 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Pocasset Wampanoag Indian Tribe, Fall River Massachusetts, c/o Mr. Robert Page, 900 Milldale Road, Cheshire, Connecticut 06410; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on January 23, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly § 54.8(d)) of the Federal regulations, interested parties and informed parties may submit factual and/or legal arguments in support of or in opposition to the group's position. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated: March 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–8304 Filed 4–5–95; 8:45 am]

BILLING CODE 4310–02–M

Federal Register

Thursday
April 6, 1995

Part III

Department of Defense

Department of the Army

Problems in Tender Filing: New Policy; Notice

DEPARTMENT OF DEFENSE

Department of the Army

Problems in Tender Filing—New Policy

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of New Policy.

SUMMARY: MTMC is establishing a policy governing carrier's responsibility for tender filings. This policy gives MTMC authority to reject and correct mistakes in rate tender filings, and provides carriers with rate filing procedures for correcting mistakes in rate. This policy was published 59 FR 55460, 7 November 1994, for comments by December 15, 1994. No comments were received.

DATES: The new policy will be effective May 15, 1995, in all new MTMC Non-Guaranteed Traffic (GT) solicitations and all new GT solicitations advertised in the Commerce Business Daily.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–T–ND, Room 621, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara McGinnis, MTOP–T–ND, (703) 756–1103.

SUPPLEMENTARY INFORMATION: The policy will be included as an enclosure to all future MTMC Guaranteed and Non GT freight solicitations after May 15, 1995.

Problems in Tender Filings

1. *Authority.* As indicated in the solicitation, the Assistant Deputy Chief of Staff for Operations-Transportation Services retains the authority to reject and correct mistakes in rate tender filings.

2. *Procedures for Filing Tenders.*

a. *General.*

(1) Carriers are solely responsible to ensure tender submissions are legible and typed. Handwritten or illegibly typed submissions or submissions having typed strikeovers will be returned as being nonresponsive.

(2) If a rate(s), if applicable, is omitted, the tender submission will be returned as being nonresponsive.

(3) If a minimum charge(s), if applicable, is omitted, the tender submission will be returned as being nonresponsive. If a carrier does not want to make a minimum charge, if applicable, that carrier must insert a ''0''. Tender submission will be returned as being nonresponsive for failure of carrier to insert a ''0''.

(4) Tenders containing material alterations shall be rejected as nonresponsive and shall be returned to the carrier.

b. *Carrier Responsibility for Tender Filings.* Carriers are solely responsible for the proper preparation, accuracy, and timely submission of their tenders. Carriers are responsible for establishing quality control procedures that will include review of tenders prior to their submission to Headquarters, Military Traffic Management Command. Tenders found to contain errors such as typographical may be granted relief based on justification in support of alleged errors.

c. *Administrative Errors.* Administrative errors which can be corrected include, but are not limited to, mistakes in the following:

(1) Carrier street address and Standard Carrier Alpha Code.

(2) Carrier telephone number.

(3) Mode, if applicable.

(4) Tender number or series.

(5) Interstate Commerce Commission, and/or intrastate operating authority certificate number.

(6) Typed name of company official authorized to submit rates, address, and telephone number. Tender submission will be returned as being nonresponsive for failure of a carrier to sign its tender.

(7) Tender and rate sheet not corresponding that can be evaluated on an equal basis with other carriers. If a rate sheet varies the material terms (e.g., change in rate qualifier, mileage groups, or minimum weights) of the solicitation so that the rates cannot be evaluated on an equal basis with other carriers, the tender submission will be returned as being nonresponsive.

(8) Failure to submit the required number of original signature copies of the rate tender.

(9) Failure of the carrier to submit a properly signed and executed Certificate of Independent Pricing with tender submission.

3. *Mistakes in Rate Filing Procedures (MIRF).*

a. *General.*

(1) Carriers discovering a mistake(s) before bid closing time can correct such mistake(s) by submission of a new tender prior to closing. The last tender received before closing governs. Identification of a rate error(s) in a bid submission after opening may be initiated by either HQMTMC or in writing by the carrier. After opening, carriers may either withdraw or seek to correct rate error(s).

(2) Correction is allowed for clerical error(s) where the intended rate is obvious from the bid submission itself, as in the case of misplaced decimal.

(3) Correction is allowed in other cases (except in the case of a downward correction which would displace a low bidder) only if the carrier proves the mistake and the rate actually intended by providing HQMTMC (MTOP–T–N) clear and convincing written evidence. If the evidence supports the existence of the mistake, but not the rate actually intended, the carrier will be permitted to withdraw its tender (or MTMC will reject it). Carriers must submit evidence to arrive HQMTMC (MTOP–T–N) within a reasonable time after notification by MTMC of a suspected mistake.

(4) Where a downward correction would displace a low bidder, it is permitted only if the mistake and the intended rate can be determined from the solicitation and the tender itself.

b. *Evidence.* The following evidence must, at a minimum, be submitted by the carrier when the carrier seeks to correct a mistake in rate other than a clerical error(s):

(1) Original source documents pertinent to the error, including, but not limited to, working papers, spread sheets, transcription sheets, adding machine tapes, tariffs, cost data sheets, memorandum for records, written procedural guidance in determining rate levels, internal rate printouts, and other such papers which will provide a clear audit trail for tracing the mistake.

(2) Other documents deemed by the carrier to be relevant to error validation can also be used as evidence.

(3) To protect their interests, carriers are encouraged to retain original source data until it is certain that no further use for it exists.

4. *Rate Errors.* Rate regression mistakes may be considered for relief under the MIRF procedure. Correction of rate regression mistakes cannot affect other rates already in normal regression. Two examples of correctable rate regression mistakes are shown below:

Example 1:

Mileage	Minimum weights				
	1,000	2,000	5,000	10,000	20,000
100 or less	$9.60	$4.80	$1.92	$1.20	$.90
101 to 200	9.60	4.80	1.92	1.20	.90
201 to 300	14.30	7.15	2.86	3.00	1.50
301 to 400	21.90	10.95	4.38	3.09	1.55

The error in the above example is the underlined rate which is not in proper rate regression for the higher minimum weight. It can be corrected without affecting the regression for the mileage groups. If the carrier intended a different rate, the carrier may seek correction under the MIRF procedure, provided that the intended rate itself falls within normal regression.

Example 2:

Mileage	Minimum weights				
	200	500	1,000	2,000	5,000
400 or less	$400	$160	$100	$30	$24
401 to 500	400	160	100	30	24
501 to 600	4	160	100	30	24
601 to 700	400	160	100	30	24

The error in the above example is the underlined rate which is not in proper rate regression for lower distance. It can be corrected without affecting the regression for the minimum weight groups.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–8441 Filed 4–5–95; 8:45 am]

BILLING CODE 3719–08–M

Federal Register

Thursday
April 6, 1995

Part IV

Department of Commerce

International Trade Administration

Commerce Trade Fair Privatization; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 950327078–5078–01]

Commerce Trade Fair Privatization: Private Sector Organization and Management of Overseas Trade Fairs; Selection and Recruitment

AGENCY: International Trade Administration, Commerce.

ACTION: Requesting proposals from qualified U.S. firms (organizers) to assume U.S. pavilion recruitment, promotion, organization and management functions in selected overseas trade fairs and announcing selection of firms and events for the pilot round of privatization initiated in June 1994.

SUMMARY: This notice sets forth the objectives, applicant criteria, and procedures for qualified U.S. firms, associations or American Chambers of Commerce abroad to assume the responsibility for recruiting, promoting, organizing, and managing a U.S. exhibitor presence abroad in selected overseas trade fairs which previously have been organized and managed by Commerce. In this context and throughout this notice, this transfer of responsibilities is referred to as ''privatization.''

In order to submit an application, per the preceding paragraph, qualified entities must refer to the June 24, 1994, **Federal Register**, 59 FR 32678–32683, and submit an application per the instructions stated therein, as well as in this notice.

This notice also provides the names of firms, associations, or American Chambers of Commerce selected by the Department of Commerce (Commerce) to assume the responsibility for recruiting, promoting, organizing, and managing a U.S. exhibitor presence abroad in select overseas trade fairs which previously have been organized and managed by Commerce. The subject events were previously announced in the June 24, 1994, **Federal Register**, 59 FR 32678–32683.

DATES: These revised administrative procedures are effective on April 6, 1995. The deadline for receipt of applications from U.S. firms wishing to assume responsibility for recruitment, promotion, and management of a U.S. pavilion or grouping of U.S. exhibitors varies according to each individual show as specified in this notice.

ADDRESSES: Trade Fair Certification Program, Room 2116, Export Promotion Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Paul Bucher, U.S. Department of Commerce, Room 2116, 14th and Constitution Avenue, N.W., Washington, DC 20230. Tel: (202) 482–2525 Fax: (202) 482–0115 (for communication purposes only; facsimile applications will not be accepted).

SUPPLEMENTARY INFORMATION: Based on the experience with the pilot round of privatization announced June 24, 1994, there are some modifications to the criteria contained in the referenced **Federal Register** notice. Unless otherwise noted or superseded by this announcement, all applicant eligibility criteria and Conditions of Participation specified in the June 24, 1994, **Federal Register** notice still apply. The changes are as follows:

- In order to qualify, all applications must be received no later than 400 days prior to the first day of the subject show. (Since some show dates are not yet fixed, applicant should contact the event proprietor listed for each event to determine the specific dates of the subject event, and submit an application within the specified time frame.)
- Trade association applicants may not restrict their U.S. exhibitor recruitment campaign to association members only. Such applicants must acknowledge and agree to this condition. This information must be included in the response to Question 10 (Form of Application), as found in the June 24, 1994, **Federal Register** notice.
- For events listed as TFOs (trade fair recruited by overseas' U.S. embassy staff), Commerce cannot guarantee that the foreign trade fair proprietor will agree to privatization of the U.S. pavilion in the subject event. Commerce will assist the selected U.S. pavilion organizer in its discussions with the foreign event proprietor, but it is the foreign event proprietor's decision to grant the necessary lease for exhibit space.
- Within 60 days notice of selection, the U.S. pavilion organizer must submit the necessary lease documentation.
- Prior to selection of the U.S. pavilion organizer, Commerce reserves the right to withdraw an event from the privatization process if circumstances warrant Commerce's retention of the event. Also, following selection of the U.S. pavilion organizer, Commerce may withdraw its support of the U.S. pavilion organizer if Commerce determines that the U.S. pavilion organizer has not complied with the provisions outlined in the **Federal Register** notice of June 24, 1994, and of this notice. Commerce also retains the option to directly organize and manage a pavilion of exhibitors under these circumstances.
- While the foreign event proprietor will be encouraged to offer the selected U.S. pavilion organizer leased space under the same conditions and rates that would be offered to Commerce, Commerce cannot guarantee it.
- Pavilion organizers should note that the foreign event proprietor may opt to select its own agent in advance of Commerce's selection of a U.S. pavilion organizer. In such cases, Commerce will continue to offer its support to the U.S. pavilion organizer and event, but via the standard Trade Fair Certification Program, as prescribed in the **Federal Register** notice dated April 30, 1993, 58 FR 26116.

Applicants Sought

Applicants should contact the relevant trade fair authority about event specifics and logistics. The appropriate Commerce Senior Commercial Officer should be contacted to discuss Commerce's activities and responsibilities as they relate to the U.S. pavilion. Commerce seeks applications from qualified firms, associations, or American Chambers of Commerce abroad to assume U.S. pavilion recruitment, promotion, organization and management functions in the following overseas trade fairs:

Type	Event name	Industry	Ex. No.	Show date	City/country	FRE
TFO	FIEPAG, Randolph Haynes, Alcantara Machado Feiras e Promocoes Ltda., Rua Brasilio Machado 60, 01230–905, Sao Paulo, Brazil, Tel: 55–11–826–9111, Fax: 55–11–673–626.	PGA	20	May 1996, Richard Ades, Senior Commercial Officer, US&FCS Rua Estados Unidos, 1812, Sao Paulo, S.P., Brazil, Tel: 55–11–853–2011, Fax: 55–11–853–2744.	Sao Paulo, Brazil	B
SFO	EXPO USA (contact post directly), Robert Bucalo, Senior Commercial Officer, US&FCS, Unit 5500, APA AA 34041, Tel: 809–541–2171, Fax: 809–688–4838.	GIE	60	June 1996	Santo Domingo, Dominican Rep.	A
TFO	Computex (contact post directly), Ying Price, Senior Commercial Officer, American Trade Center, Room 3207 International Trade Building, Taipei World Trade Center, 333 Keelung Road, Section 1, Taipei 10548, Taiwan, Tel: 886–2–720–1550, Fax: 886–2–757–7162.	CPT/CSF	30	June 1996	Taipei, Taiwan	A
TFO	Santa Cruz, Luis Alberto Pacheco or Eric Weise M arquez, Feria Exposicion de Santa Cruz, Av. Roca y Coronado s/n, Casilla 116, Santa Cruz, Bolivia, Tel: 591–3–533–535, Fax: 591–3–530–881.	GIE	30	Sept. 1996, Paul Larsen, Economic/Commercial Officer, American Embassy, APO AA 34032, Tel: 591–2–350–251, Fax: 591–2–359–875.	Santa Cruz, Bolivia	B

In order to receive the necessary details about Commerce's current and previous involvement with the subject event, applicants should contact Commerce's Senior Commercial Officer in the country where the show is being held. If contact information for these officers is required, refer to ''For Further Information'' at the beginning of this notice.

Type
TFO—Trade Fair recruited by overseas post
SFO—Trade Fair for U.S. products/services only (recruited by overseas post)
Frequency
A—Annual
B—Biennial
Show Industry Codes
CPT—Computers and Peripherals
CSF—Computer Software
GIE—General Industrial Equipment
PGA—Printing and Graphic Arts Equipment

Selected Shows and Applicants

As part of the pilot round of trade event privatization announced in the June 24, 1994, **Federal Register** notice, the following shows and U.S. pavilion organizers/managers were selected:

Show name/date	Applicant
Rural Ex, July 12–31, 1995, Buenos Aires, Argentina.	William Warnes, VP International, CMC—International Division, 200 N. Glebe Road, Suite 900, Arlington, VA 22203, Tel: (703) 527–8000, Fax: (703) 527–8006.
Seoul Instrument, Sept. 1995, Seoul, Korea	Kathy Donnelly, Managing Dir., Concord Expo Group, P.O. Box 677, Concord, MA 01742–2101, Tel: (508) 371–2203, Fax: (508) 371–7121.
Offshore Europe, Sept. 5–8, 1995, Aberdeen, Scotland.	Jolanta Mazewski-Dryden, Dir. of Conferences and Exhibitions, International Exhibitions, Inc., 1635 W. Alabama, Houston, TX 77006, Tel: (713) 529–1616, Fax: (713) 529–0936.
Plovdiv Int'l Fair, Sept. 26–Oct. 2, 1995, Plovdiv, Bulgaria.	John D. Liakatos, Via Expo Ltd., P.O. Box 630196, Bronx, NY 10463, Tel: (718) 548–4747, Fax: (718) 548–8197.
Expo Salud, Oct. 3–7, 1995, Santiago, Chile	William Warnes, VP International, CMC—International Division, 200 N. Glebe Road, Suite 900, Arlington, VA 22203, Tel: (703) 527–8000, Fax: (703) 527–8006.
Polagra Int'l Fair, Oct. 6–11, 1995, Poznan, Poland.	Jeff Malley, Dir. Int'l Sales and Marketing, Comtek International, 43 Danbury Road, Wilton, CT 06897, Tel: (203) 834–1122, Fax: (203) 762–0773.
Aimex, Oct. 16–20, 1995, Sydney, Australia	Peter Vlahos, International Concrete and Aggregates Group, 900 Spring Street, Silver Spring, MD 20910, Tel: (301) 587–1400, Fax: (301) 587–4260.
Mineria, Oct. 18–22, 1995, Acapulco, Mexico ...	William Warnes, VP International, CMC—International Division, 200 N. Glebe Road, Suite 900, Arlington, VA 22203, Tel: (703) 527–8000, Fax: (703) 527–8006.
Fisa, Oct. 25–Nov. 5, 1995, Santiago, Chile	Catherine Doerr, President, ShoWorks, Inc., 702 S. Washington, Spokane, WA 99204–2524, Tel: (509) 838–8755, Fax: (509) 838–2838.
Pacific Int'l Fair, November 1995, Lima, Peru ...	William Warnes, VP International, CMC—International Division, 200 N. Glebe Road, Suite 900, Arlington, VA 22203, Tel: (703) 527–8000, Fax: (703) 527–8006.
Taipei Int'l Book Fair, January 1996, Taipei, Taiwan.	Kathy Donnelly, Managing Dir., Concord Expo Group, P.O. Box 677, Concord, MA 01742–2101, Tel: (508) 371–2203, Fax: (508) 371–7121.
Expocomer, March 6–11, 1996, Panama City, Panama.	Dan Chambers, DC Commerce International, 3021 South Hill Street, Arlington, VA 22202, Tel: (703) 941–3460, Fax: (703) 941–2642.

Show name/date	Applicant
Inpoco, April 1996, Seoul, Korea	Kathy Donnelly, Managing Dir., Concord Expo Group, P.O. Box 677, Concord, MA 01742–2101, Tel: (508) 371–2203, Fax: (508) 371–7121.
Interclean '96, April 1996, Amsterdam, Netherlands.	Ellen Glew, President, E. Glew International, Ten Tower Office Park Dr., Woburn, MA 01801, Tel: (617) 933–9055, Fax: (617) 933–8744.
Technotron, April 1996, Lima, Peru	William Warnes, VP International, CMC—International Division, 200 N. Glebe Road, Suite 900, Arlington, VA 22203, Tel: (703) 527–8000, Fax: (703) 527–8006.
Telexpo, April 14–22, 1996, Sao Paulo, Brazil	James M. Forlenza, Vice President, Industrial Group, EJ Krause and Assoc., Inc., 7315 Wisconsin Ave., Suite 450 N, Bethesda, MD 20814, Tel: (301) 986–7800, Fax: (301) 986–4538.
Interzoo, May 1996, Nuremberg, Germany	Kathy Donnelly, Managing Director, Concord Expo Group, P.O. Box 677, Concord, MA 01742–2101, Tel: (508) 371–2203, Fax: (508) 371–7121.
Expomin '96, May 14–18, 1996, Santiago, Chile	Joseph Lema, Acting Vice President, Manufacturing, National Mining Association, 1130 17th Street, NW., Washington, DC 20036, Tel: (202) 463–2625, Fax: (202) 833–1965.
Eurosatory '96, June 24–29, 1996, Paris, France.	Joseph P. Hollis, Director, Industry Affairs, Association of the U.S. Army, 2425 Wilson Blvd., Suite 657, Arlington, VA 22201, Tel: (703) 841–4300, ext. 660, Fax: (703) 243–2589.
Bogota Int'l Fair, July, 1996, Bogota, Colombia	Joseph A. Finnin, Exec. Dir., Colombian-American Chamber, of Commerce, Calle 35 No. 6–16, Bogota, Colombia, South America, Tel: (571) 288–1306, (571) 285–7800, Fax: (571) 288–6434.

Dated: March 30, 1995.

Mary Fran Kirchner,

Chairman, Trade Events Board, International Trade Administration, Department of Commerce.

[FR Doc. 95–8442 Filed 4–5–95; 8:45 am]

BILLING CODE 3510–FP–P

Reader Aids

Federal Register

Vol. 60, No. 66

Thursday, April 6, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	**202–523–5227**
Public inspection announcement line	**523–5215**
Corrections to published documents	**523–5237**
Document drafting information	**523–3187**
Machine readable documents	**523–4534**

Code of Federal Regulations

Index, finding aids & general information	**523–5227**
Printing schedules	**523–3419**

Laws

Public Laws Update Service (numbers, dates, etc.)	**523–6641**
Additional information	**523–5230**

Presidential Documents

Executive orders and proclamations	**523–5230**
Public Papers of the Presidents	**523–5230**
Weekly Compilation of Presidential Documents	**523–5230**

The United States Government Manual

General information	**523–5230**

Other Services

Data base and machine readable specifications	**523–4534**
Guide to Record Retention Requirements	**523–3187**
Legal staff	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (PLUS)	**523–6641**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.
NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978.....3
16979–17190.....4
17191–17432.....5
17433–17624.....6

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

7 CFR

97.....17188
201.....16979
457.....16765
925.....16765
946.....17433
979.....16767
982.....16768
985.....16770, 17434
1126.....17191
1131.....17192
Proposed Rules:
956.....17274
981.....17466

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

208.....17436
226.....16771

13 CFR

107.....17438

14 CFR

25.....17194
39 .....16780, 16782, 17438, 17440
71.....17196, 17442
97.....17198, 17199
Proposed Rules:
39 .....16813, 16815, 16817, 17030, 17385, 17487, 17489
71.....17284

16 CFR

Proposed Rules:
248.....17032
409.....17491
460.....17492

17 CFR

200.....17201
Proposed Rules:
239.....17172
270.....17172
274.....17172

18 CFR

284.....16979

20 CFR

404.....17443

21 CFR

20.....16962
101.....17202
310.....17611
876.....17208
Proposed Rules:
876.....17611

22 CFR

514.....16785

24 CFR

215.....17388
236.....17388
3500.....16985
570.....17445
813.....17388
905.....17388
913.....17388

26 CFR

1.....17216
Proposed Rules:
1.....17286

27 CFR

55.....17446
72.....17446
178.....17446
179.....17446
Proposed Rules:
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456

29 CFR

580.....17221

30 CFR

914.....16985
915.....17458
938.....16788
Proposed Rules:
902.....17495
904.....17498
906.....17501
915.....17504
916.....17504
918.....17498
925.....17504
926.....17495
931.....17501
934.....17495
936.....17498
943.....17498
944.....17501
950.....17495

32 CFR

Proposed Rules:
63.....17507

33 CFR

3.....17222
154.....17134
155.....17134
162.....16793
165.....16793

Proposed Rules:

Ch. I.....17287
165 .....16818, 16820, 16821

34 CFR

350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

37 CFR

1.....16920

39 CFR

265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100
52 .....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232
72.....17100
73.....17100
74.....17100
75.....17100
77.....17100
78.....17100
81.....16996
136.....17160
260.....17001
300.....17004
720.....17005
721.....17005
723.....17005
300.....16808

Proposed Rules:

Ch. I.....17288
51.....17509
52 .....16823, 16824, 16829, 17034, 17288, 17289
58.....17509
63.....16829, 16920
81.....17034
86.....17509
372.....16830
761.....17510

43 CFR

12.....17237

Proposed Rules:

426.....16922
427.....16922

44 CFR

64.....17005
65 .....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

67.....17035, 17042

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134

Proposed Rules:

Ch. I.....17287
67.....17290

47 CFR

73.....17023, 17253

Proposed Rules:

1.....17294
73.....17048

48 CFR

6101.....17023

Proposed Rules:

6.....17295
12.....17184
16.....17295
52.....17184, 17295

49 CFR

173.....17398
178.....17398
180.....17398
552.....17254
554.....17254
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295

50 CFR

650.....17272
655.....17464
663.....16811
672.....17465
675.....17028

Proposed Rules:

17.....16836, 17296
641.....17511
675.....17512